

STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

2003 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 2004

BEGINNING ON

**MONDAY, THE TENTH DAY OF
MAY, A.D. 2004**

HELD IN THE CITY OF RALEIGH

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

PUBLISHED BY AUTHORITY

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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
**PATRICIA N. WILLOUGHBY (D)....Superintendent of Public Instruction Wake
ROY A. COOPER, III (D).....Attorney General..... Nash
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 August 31, 2004.

** Appointed September 1, 2004 to serve as Interim Superintendent of Public Instruction and sworn in as Superintendent of Public Instruction on September 7, 2004 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

District	Name	Party	County	Address
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	*** WOODY WHITE	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	** RALPH A. HUNT	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	* MARTIN L. NESBITT	D	Buncombe	Weaverville
50	ROBERT C. CARPENTER	R	Macon	Franklin

* Appointed February 6, 2004 to replace Steve Metcalf who resigned February 2, 2004.

** Appointed April 21, 2004 to replace Wib Gullely who resigned March 19, 2004.

*** Appointed May 5, 2004 to replace Patrick J. Ballantine who resigned April 19, 2004.

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

District	Name	Party	County	Address
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.....	Anson.....	Waynesboro
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	* FRED F. STEEN, II.....	R.....	Rowan.....	Landis
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.....	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.....	Cherryville
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	** SUSAN C. FISHER.....	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

* Appointed February 16, 2004 to replace W. Eugene McCombs who died January 20, 2004.

** Appointed February 25, 2004 to replace Martin L. Nesbitt who resigned February 21, 2004.

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 H. DALTON
SEN. VIRGINIA ANN FOXX
SEN. ANTHONY EDEN RAND
SEN. ERIC MILLER REEVES
SEN. LARRY SHAW
SEN. R.C. SOLES, JR.

REP. WILLIAM T. CULPEPPER, III
REP. STANLEY H. FOX
REP. JULIA CRAVEN HOWARD
REP. WILMA M. SHERRILL
REP. WILLIAM L. WAINWRIGHT
REP. STEPHEN WRAY WOOD

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

SESSION LAWS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 2004

H.B. 1411

Session Law 2004-1

AN ACT TO DESIGNATE AS TEMPORARY UNVEGETATED BEACH AREAS CERTAIN OCEANFRONT AREAS ON HATTERAS ISLAND WHERE THE VEGETATION LINE WAS DESTROYED BY HURRICANE ISABEL AND THE REMNANTS OF THE VEGETATION LINE WERE BURIED BY THE CONSTRUCTION OF AN EMERGENCY BERM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. For purposes of implementing Article 7 of Chapter 113A of the General Statutes and rules adopted pursuant to that Article and notwithstanding any provision of that Article or those rules to the contrary, there are hereby designated as temporary unvegetated beach areas those oceanfront areas on Hatteras Island west of the new inlet breach in Dare County in which the vegetation line as shown on Dare County orthophotographs dated 4 February 2002 through 10 February 2002, was destroyed as a result of Hurricane Isabel on 18 September 2003, and the remnants of which were subsequently buried by the construction of an emergency berm. This designation shall continue until stable, natural vegetation is reestablished or until the area is permanently designated as an unvegetated beach area pursuant to 15A NCAC 07H .0304(4)(a).

SECTION 2. This act is effective when it becomes law and expires when a permanent rule that makes the designation set out in Section 1 of this act becomes effective.

In the General Assembly read three times and ratified this the 19th day of May, 2004.

Became law upon approval of the Governor at 11:58 a.m. on the 26th day of May, 2004.

S.B. 623

Session Law 2004-2

AN ACT TO PROVIDE FOR A SPECIAL DEADLINE FOR EXEMPT ADULT HOUSING FACILITIES LOCATED IN A DOWNTOWN AREA AND BEING RELOCATED DUE TO A MAJOR ECONOMIC DEVELOPMENT PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that economic development of downtown areas of major urban centers may require displacement of existing facilities that have been under time constraints for compliance with statutory deadlines.

SECTION 2. As used in this act, a "specially impacted adult care home" is a building that has received an exemption under Section 11.9(a) of S.L. 2000-67 and is:

- (1) Ten stories or more in height;
- (2) Located within the boundaries of a municipal service district created under Article 23 of Chapter 160A of the General Statutes;
- (3) Located within 100 yards of a mixed-use building of more than 10 stories that is being opened for occupancy after the date of enactment of this act; and
- (4) Located within 100 yards of an office building that is more than 20 stories in height,

and where some of the occupants of the building are to be relocated to a facility in the same county but not on the campus of any college.

SECTION 3.(a) In applying to a "specially impacted adult care home", Section 11.69(b2) of S.L. 1997-443, as enacted by Section 3 of S.L. 2001-234, "June 1, 2004" shall be read as "June 1, 2005", and "December 1, 2004" shall be read as "December 1, 2005".

SECTION 3.(b) One facility where some of the occupants of the building are relocated under Section 2 of this act shall continue to have the same status under Section 11.9(a) of S.L. 2000-67 as the facility from where the occupants were relocated.

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

In the General Assembly read three times and ratified this the 19th day of May, 2004.

Became law upon approval of the Governor at 11:59 a.m. on the 26th day of May, 2004.

H.B. 57

Session Law 2004-3

AN ACT TO ALLOW RANDOLPH COUNTY TO REAPPOINT MEMBERS OF ITS TOURISM DEVELOPMENT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3(a) of S.L. 1997-342 reads as rewritten:

"(a) **Appointment and membership.** When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of nine members to be appointed by the board of commissioners as follows:

- (1) Seat 1 shall represent the hotel and motel industry, seat 4 shall represent the North Carolina Zoological Park, seat 7 is unrestricted, and seat 9 shall represent the county.
- (2) Seats 2, 3, 5, and 6 shall be appointed upon the recommendation of the Archdale/Trinity Chamber of Commerce, the Asheboro/Randolph Chamber of Commerce, the Liberty Chamber of Commerce, and the Randleman Chamber of Commerce, respectively.

- (3) Seat 8 shall represent the hotel and motel industry and shall be appointed upon the recommendation of the Asheboro/Randolph Chamber of Commerce.

In appointing and recommending members, each entity shall strive to select individuals who either have expertise in promoting and developing travel and tourism or are affiliated with organizations that collect the tax. The board of commissioners may reject the recommendation of a chamber of commerce and require the chamber to submit additional names within 30 days after the rejection. If the chamber does not submit additional names within this period, the board of commissioners may appoint someone to the seat based upon its own recommendation.

All members of the Authority serve at the pleasure of the board of commissioners and may be removed by the board at any time. The board of commissioners shall designate one member of the Authority as chair and another as cochair. Members shall serve without compensation.

Except for initial terms, the term of office shall be for three years. ~~No member may serve more than two consecutive three year terms.~~ Members may serve unlimited three-year terms at the pleasure of the appointing authority. The initial terms for seats 1, 2, and 3 shall be one year. The initial terms for seats 4, 5, and 6 shall be two years. The initial terms for seats 7, 8, and 9 shall be three years.

The Authority shall meet at the call of the chair and shall adopt bylaws and rules of procedure to govern its meetings. The Finance Officer for Randolph County shall be the ex officio finance officer of the Authority."

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

In the General Assembly read three times and ratified this the 7th day of June, 2004.

Became law on the date it was ratified.

S.B. 1189

Session Law 2004-4

AN ACT ALLOWING THE TOWN OF CHADBOURN TO EXTEND ITS EXTRATERRITORIAL PLANNING JURISDICTION UP TO TWO MILES OUTSIDE ITS CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-360(a) reads as rewritten:

"(a) All of the powers granted by this Article may be exercised by any city within its corporate limits. In addition, any city may exercise these powers within a defined area extending not more than ~~one mile~~ two miles beyond its limits. With the approval of the board or boards of county commissioners with jurisdiction over the area, a city of 10,000 or more population but less than 25,000 may exercise these powers over an area extending not more than two miles beyond its limits and a city of 25,000 or more population may exercise these powers over an area extending not more than three miles beyond its limits. The boundaries of the city's extraterritorial jurisdiction shall be the same for all powers conferred in this Article. No city may exercise extraterritorially any power conferred by this Article that it is not exercising within its corporate limits. In determining the population of a city for the purposes of this Article, the city council and the board of county commissioners may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration."

SECTION 2. This act applies to the Town of Chadbourn only.

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

In the General Assembly read three times and ratified this the 10th day of June, 2004.

Became law on the date it was ratified.

H.B. 1604

Session Law 2004-5

AN ACT TO AMEND THE GREENSBORO CITY CHARTER TO INCREASE THE AUTHORITY OF THE CITY MANAGER TO SETTLE CLAIMS AGAINST THE CITY FROM FIFTY THOUSAND DOLLARS TO THREE HUNDRED THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7.03 of the Charter of the City of Greensboro, being Section 1 of Chapter 1137 of the 1959 Session Laws, as amended by Chapter 686 of the 1961 Session Laws, Chapter 55 of the 1963 Session Laws, Chapter 213 of the 1973 Session Laws, Chapter 159 of the 1981 Session Laws, Chapter 4 of the 1991 Session Laws, and Chapter 680 of the 1995 Session Laws, is rewritten to read:

"Sec. 7.03. Settlement of claims by city manager.

The city manager may settle claims against the city for: (i) personal injury or for damages to property when the amount involved does not exceed the sum of three hundred thousand dollars (\$300,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred, and (ii) the taking of property for rights-of-way in connection with public improvements which the city is authorized by law to make, when the amount involved in any such settlement does not exceed the sum of three hundred thousand dollars (\$300,000) 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 subject to the approval of the city attorney."

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

In the General Assembly read three times and ratified this the 14th day of June, 2004.

Became law on the date it was ratified.

H.B. 1666

Session Law 2004-6

AN ACT TO ALLOW THE TOWN OF GARNER 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 and S.L. 2003-42, reads as rewritten:

"**SECTION 4.** Sections 1 and 2 of this act apply to the Cities of Clinton, Durham, Fayetteville, Goldsboro, High Point, and Lumberton, and the Towns of Garner, 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 14th day of June, 2004.

Became law on the date it was ratified.

H.B. 1474

Session Law 2004-7

AN ACT TO EXEMPT YANCEY COUNTY FROM THE PROVISIONS OF CHAPTER 143, ARTICLE 8 OF THE GENERAL STATUTES, FOR PURPOSES OF DEVELOPMENT OF A HEALTH CARE FACILITY IN A PUBLIC-PRIVATE INITIATIVE.

The General Assembly of North Carolina enacts:

SECTION 1. Yancey County may, for purposes of the development of a consolidated health care facility in a public-private initiative involving the county and a private health care provider, directly or indirectly, contract for, construct, or acquire title to improvements located on real property more particularly described in Deed Book 451, page 474, Yancey County Registry, and for that project is exempt from the provisions of Chapter 143, Article 8 of the General Statutes.

SECTION 2. This act applies only to Yancey County and the premises described by reference in Section 1 of this act.

SECTION 3. This act is effective when it becomes law and expires January 1, 2008.

In the General Assembly read three times and ratified this the 16th day of June, 2004.

Became law on the date it was ratified.

H.B. 1465

Session Law 2004-8

AN ACT TO ALLOW FARMLAND OWNED BY A FAMILY BUSINESS TO KEEP ITS PRESENT-USE VALUE TAX STATUS WHEN LEASED FOR FARM USE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.2 reads as rewritten:

"§ 105-277.2. **Agricultural, horticultural, and forestland – Definitions.**

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

- (1) **Agricultural land.** – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland, then the

woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.

- (1a) Business entity. – A corporation, a general partnership, a limited partnership, or a limited liability company.
- (2) Forestland. – Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit must be appraised under the use-value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(3), and each tract must be under a sound management program.
- (3) Horticultural land. – Land that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program. Horticultural land includes woodland and wasteland that is a part of the horticultural unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A horticultural unit may consist of more than one tract of horticultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(2), and each tract must be under a sound management program. If the horticultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent horticultural land or protect water quality of adjacent horticultural land.
- (4) Individually owned. – Owned by one of the following:
 - a. A natural person. For the purpose of this section, a natural person who is an income beneficiary of a trust that owns land may elect to treat the person's beneficial share of the land as owned by that person. If the person's beneficial interest is not an identifiable share of land but can be established as a proportional interest in the trust income, the person's beneficial share of land is a percentage of the land owned by the trust that corresponds to the beneficiary's proportional interest in the trust income. For the purpose of this section, a natural person who is a member of a business entity, other than a corporation, that owns land may elect to treat the person's share of the land as owned by that person. The person's share is a percentage of the land owned by the business entity that corresponds to the person's percentage of ownership in the entity.
 - b. A business entity having as its principal business one of the activities described in subdivisions (1), (2), and (3) and whose

members are all natural persons who meet one or more of the ~~following conditions~~ conditions listed in this sub-subdivision. For the purpose of this sub-subdivision, the terms 'having as its principal business' and 'actively engaged in the business of the entity' include the leasing of the land for one of the activities described in subdivisions (1), (2), and (3) only if all members of the business entity are relatives.

1. The member is actively engaged in the business of the entity.
 2. The member is a relative of a member who is actively engaged in the business of the entity.
 3. The member is a relative of, and inherited the membership interest from, a decedent who met one or both of the preceding conditions after the land qualified for classification in the hands of the business entity.
- c. A trust that was created by a natural person who transferred the land to the trust and each of whose beneficiaries who is currently entitled to receive income or principal meets one of the following conditions:
1. Is the creator of the trust or the creator's relative.
 2. Is a second trust whose beneficiaries who are currently entitled to receive income or principal are all either the creator of the first trust or the creator's relatives.
- d. A testamentary trust that meets all of the following conditions:
1. It was created by a natural person who transferred to the trust land that qualified in that person's hands for classification under G.S. 105-277.3.
 2. At the time of the creator's death, the creator had no relatives as defined in this section as of the date of death.
 3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).
- e. Tenants in common, if each tenant is either a natural person or a business entity described in sub-subdivision b. of this subdivision. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105-302(c)(9). The ownership requirements of G.S. 105-277.3(b) apply to each tenant in common who is a natural person, and the ownership requirements of G.S. 105-277.3(b1) apply to each tenant in common who is a business entity.
- (4a) Member. – A shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.
- (5) Present-use value. – The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management. A rate of nine percent (9%) shall be used to capitalize the expected net income of forestland. The capitalization rate for agricultural land and

horticultural land is to be determined by the Use-Value Advisory Board as provided in G.S. 105-277.7.

- (5a) Relative. – Any of the following:
- a. A spouse or the spouse's lineal ancestor or descendant.
 - b. A lineal ancestor or a lineal descendant.
 - c. A brother or sister, or the lineal descendant of a brother or sister. For the purposes of this sub-subdivision, the term brother or sister includes stepbrother or stepsister.
 - d. An aunt or an uncle.
 - e. A spouse of a person listed in paragraphs a. through d.
- For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.
- (6) Sound management program. – A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement.
- (7) Unit. – One or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under G.S. 105-277.3(a) and share one of the following characteristics:
- a. Type of classification.
 - b. Use of the same equipment or labor force."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2004.

In the General Assembly read three times and ratified this the 9th day of June, 2004.

Became law upon approval of the Governor at 11:28 a.m. on the 17th day of June, 2004.

H.B. 1386

Session Law 2004-9

AN ACT AMENDING THE CHARTER OF THE TOWN OF INDIAN TRAIL TO REMOVE THE REQUIREMENT THAT THE TOWN ATTORNEY SHALL ATTEND ALL TOWN COUNCIL MEETINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5.2 of the Charter of the Town of Indian Trail, being Chapter 825 of the 1969 Session Laws, reads as rewritten:

"Sec. 5.2. ~~Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Town Council, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Town Council; and to perform such other duties as may be required of him by virtue of his the position of Town Attorney. The Council 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 as required by law or as the Council may prescribe.~~"

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

In the General Assembly read three times and ratified this the 21st day of June, 2004.

Became law on the date it was ratified.

H.B. 1426

Session Law 2004-10

AN ACT TO EXEMPT FROM CERTAIN PUBLIC BIDDING LAWS THE CITY OF GREENVILLE IN THE CONSTRUCTION OF PARKING STRUCTURE PROJECTS IN ITS CENTRAL BUSINESS DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Except for G.S. 143-128.2 and G.S. 143-128.3, the provisions of Article 8 of Chapter 143 of the General Statutes do not apply to the construction of parking structure projects in the central business district, as that district is defined by the city council.

SECTION 2. This act applies only to the City of Greenville.

SECTION 3. This act is effective when it becomes law and expires January 1, 2010.

In the General Assembly read three times and ratified this the 21st day of June, 2004.

Became law on the date it was ratified.

H.B. 1433

Session Law 2004-11

AN ACT PROVIDING THAT MEMBERS OF THE WAKE COUNTY HISTORIC PRESERVATION COMMISSION MAY RESIDE WITHIN THE CORPORATE BOUNDARIES OR EXTRATERRITORIAL JURISDICTION OF A MUNICIPALITY WITHIN THE COUNTY.

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 within the county, and any member may reside within the corporate boundaries of a municipality within the county, including 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 Wake County only.

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

In the General Assembly read three times and ratified this the 21st day of June, 2004.

Became law on the date it was ratified.

H.B. 1454

Session Law 2004-12

AN ACT TO PROVIDE FOR STAGGERED FOUR-YEAR TERMS FOR THE MAYOR AND BOARD OF COMMISSIONERS OF THE TOWN OF CHOCOWINITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of Chapter 343 of the 1959 Session Laws, being the Charter of the Town of Chocowinity, is rewritten to read:

"**Sec. 3.(a)** The governing body of the Town of Chocowinity shall consist of a Mayor and four Town Commissioners who shall be elected by all the qualified voters of the Town.

"**Sec. 3.(b)** At the regular election to be held in the Town of Chocowinity in 2005 and quadrennially thereafter, a Mayor shall be elected for a four-year term.

"**Sec. 3.(c)** At the regular election to be held in the Town of Chocowinity during 2005, two Commissioner seats shall be designated and elected to two-year terms or until their successors are elected and qualified. Successors to those two seats shall be elected in 2007 and quadrennially thereafter for four-year terms.

"**Sec. 3.(d)** At the regular election to be held in the Town of Chocowinity during 2005 and quadrennially thereafter, two Commissioner seats shall be elected for four-year terms.

"**Sec. 3.(e)** Elections are determined by the plurality method as provided in G.S. 163-292."

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

In the General Assembly read three times and ratified this the 21st day of June, 2004.

Became law on the date it was ratified.

H.B. 1551

Session Law 2004-13

AN ACT RELATING TO THE TERMS OF THE MEMBERS OF THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 757 of the 1953 Session Laws, as amended by Section 1 of S.L. 1999-303, reads as rewritten:

"Section 2. The Civil Service Board shall consist of five members as follows: (i) two members who shall be chosen by the City Council at a meeting of the Council and they shall serve at the pleasure of the Council; (ii) two members who shall be elected by the members of the classified service of the City, as defined in this Act, at an election held for that purpose and on a normal City workday not less than 10 nor more than 30 days after written notice of the date of the election is provided to each member of the classified service; and (iii) one member who shall be selected by majority vote of the four other members already selected or elected at a meeting held within 30 days after the members elected by the classified service have taken office. If a member is not elected by majority vote of the four other members, the City Council shall appoint a member to the Board. Members of the Board shall serve two-year terms. All members of the Board shall be eligible for successive terms, in the same manner in which they were initially selected or elected and may serve beyond the end of their respective terms until their successors take office. The chair of the Civil Service Board shall be appointed annually by the City Council, or more often as needed, from among the membership of the Board. The members of the Board shall serve without compensation but may be reimbursed for expenses pursuant to policies adopted by the City.

The City Council shall, by ordinance not inconsistent with this act, establish the procedure for the election of the representatives of the employees in the classified service, and provide for meeting the expense for such elections. The members of the Civil Service Board must all be qualified voters of the City of Asheville, not employed by the city or serving on the City Council. In the event of a vacancy on the Board, such vacancy shall be filled by the body or group, choosing the member, a successor to whom is to be chosen, and in the manner herein provided for the selection of such member."

SECTION 2. This act applies to the City of Asheville only.

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

In the General Assembly read three times and ratified this the 21st day of June, 2004.

Became law on the date it was ratified.

H.B. 1564

Session Law 2004-14

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE CONCERNING THE CHARLOTTE REGIONAL VISITORS AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Article II of Chapter 5 of the Charter of the City of Charlotte, being S.L. 2000-26, as amended by Section 4 of S.L. 2001-402, reads as rewritten:

"ARTICLE II. AUDITORIUM-COLISEUM-CONVENTION CENTER CHARLOTTE REGIONAL VISITORS AUTHORITY.

"Section 5.21. **Continuation.** (a) The control, management, and operation of the property and improvements now or hereafter made or acquired by the City for auditorium, coliseum, civic center, and baseball stadium purposes shall continue to be vested in the authority to be known as the ~~auditorium-coliseum-convention center~~

~~authority. Charlotte Regional Visitors Authority. The authority shall also engage in activities and programs aiding and encouraging convention and visitor promotion. The authority shall be composed of at least seven and not more than nine members, as determined jointly by the Mayor and the City Council. If the authority has nine members, three shall be appointed by the Mayor and six shall be appointed by the City Council. If the authority has seven or eight members, two shall be appointed by the Mayor and the remainder shall be appointed by the City Council. One member of the authority must be an individual who is not an elected official and who is jointly nominated by the towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville and confirmed by the City's appointing authority. The City may, for good cause shown, reject the individual nominated by the towns. The City must appoint or reject the individual nominated by the towns in a timely manner. If the City rejects the nominee, the towns must jointly nominate a different individual. If the authority has nine members, one member must be an individual who is affiliated with the hotel, motel, or restaurant business in the City. The Council and the Mayor shall jointly determine which of the seats are subject to these conditions. 13 members, four appointed by the Mayor and nine appointed by the Council. Those 13 members of the authority shall represent the following categories and be appointed as follows:~~

- ~~(1) Eight at large, three appointed by the Mayor and five appointed by the Council.~~
- ~~(2) One convention hotel representative appointed by the Council.~~
- ~~(3) One limited service hotel representative appointed by the Mayor.~~
- ~~(4) One restaurant representative appointed by the Council.~~
- ~~(5) One general travel representative appointed by the Council.~~
- ~~(6) One Mecklenburg town representative who shall not be an elected official and who is jointly nominated by the towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville and appointed by the Council. The Council may, for good cause shown and in a timely manner, reject the individual nominated by the towns. If the Council rejects the nominee, the towns shall jointly nominate a different individual.~~

~~Other than for the Mecklenburg town representative, the Mayor or Council shall be responsible for determining whether their respective appointees satisfy the representational categories, which determination is final.~~

~~Each member shall serve a term of three years. The Council shall provide for the staggering of members' terms. No member shall serve more than two full consecutive terms. If any vacancy is created on the authority, the Council or the Mayor, as the case may be, shall appoint a member to fill the unexpired term. The members of the authority shall receive no compensation.~~

~~(b) Attendance of meetings and continued service on the authority shall be governed by the attendance policies established by the Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided herein.~~

~~"Section 5.22. **Officers and Funds.** The members of the authority shall elect annually from their body a chair, vice-chair, and a secretary and otherwise provide for the efficient administration of its affairs; provided, however, the finance officer of the City shall by virtue of his office be also the finance officer of the authority, and he shall serve as such finance officer without additional compensation. All funds of the authority shall be kept by its treasurer in a separate bank account or accounts from other funds of~~

the City and shall be paid out only in accordance with procedures established by such authority. The net proceeds from the operation of the ~~authority facilities~~ shall be used to pay the interest and retirement on the bonded debt of the City incurred in connection with such auditorium-coliseum-convention center-baseball stadium and shall not be used for any other purpose until said bonds, principal, and interest have been paid, except as may be otherwise approved by the Council for other uses of the authority. Quarterly operating statements of the authority and an annual audited statement shall be presented to the Council. The authority shall be deemed a "special district," as defined in G.S. 159-7, for purposes of the Local Government Budget and Fiscal Control Act and shall budget and administer its fiscal affairs according to the provisions of that act applicable to special districts.

"Section 5.23. **Powers and Duties.** (a) The authority shall operate the auditorium-coliseum-convention center-baseball stadium in a proper, efficient, economical, and business-like manner, to the end that such properties and facilities may effectively serve the public needs for which they were established at the least cost and expense to the City. The authority shall appoint a Manager of such auditorium-coliseum-convention center-baseball stadium properties, whose salary shall be fixed by the authority. Such Manager shall, in addition to other duties imposed upon him by the authority, be responsible for the collection of rents or fees for the use of the properties and facilities of the authority. The authority shall select such other personnel as it deems advisable to properly operate such properties. The authority shall have full and complete control of such auditorium-coliseum-convention center-baseball stadium properties and facilities; shall have full and complete control over granting and denying the use of, and establishing and collecting rents and fees for the use of, the properties and facilities; shall make all reasonable rules and regulations as it deems necessary for the proper operation and maintenance of such properties and facilities; may expend funds of the authority for the advertising and promotion of the use of the properties and facilities; and may sponsor and promote shows, events, games and activities involving the use of the properties and facilities and make reasonable charges therefor.

(b) The authority may, in its discretion, lease or rent auditorium-coliseum-convention center-baseball stadium properties and facilities for such terms and upon such conditions as the authority may determine but not for longer than 10 years. Leases and rentals for terms of more than one year may be executed only after 10 days' public notice by publication describing the property to be leased or rented, stating the annual lease or rental payments and announcing the authority's intent to authorize the lease or rental at its next meeting. No public notice or resolution of the authority is required with respect to leases and rentals for terms of one year or less."

(c) The authority shall engage in activities and programs aiding and encouraging convention and visitor promotion. These activities and programs shall include sales and marketing activities and expenditures that relate both to facilities under the control, management, and operation of the Authority, as well as to the selling and marketing of the Charlotte region as a travel and tourism destination."

SECTION 2. The Charlotte Regional Visitors Authority shall assume all the rights, duties, obligations, and liabilities of the Auditorium-Coliseum Convention Center Authority.

SECTION 3. In order to provide for the staggered expiration of member terms, the Council shall establish initial full terms for the Charlotte Regional Visitors Authority ranging from one to three years. The Council may establish additional rules and make determinations not inconsistent with this act in order to facilitate an orderly

transition from the Auditorium-Coliseum Convention Center Authority to the Charlotte Regional Visitors Authority.

SECTION 4. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 21st day of June, 2004.

Became law on the date it was ratified.

H.B. 1588

Session Law 2004-15

AN ACT TO AMEND THE CHARTER OF THE CITY OF MONROE TO ALLOW THE CITY COUNCIL TO DELEGATE TO THE CITY MANAGER THE POWER TO SETTLE CERTAIN CLAIMS AGAINST THE CITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.9 of the Charter of the City of Monroe, being S.L. 2000-35, reads as rewritten:

"Section 4.9. ~~Settlement of Claims by City Manager.~~ Claims. The Council may ~~authorize the City Manager to settle claims against the City for (i) personal injuries or damages to property when the amount involved does not exceed the sum of five thousand dollars (\$5,000) 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 which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed five thousand dollars (\$5,000) 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 incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the City Attorney. adopt an ordinance that delegates to the City Manager the authority, upon consultation and recommendation of the City Attorney, to approve settlements on behalf of the City in all claims or lawsuits of any kind or nature involving the City, including, but not limited to, tort claims, land condemnation, and civil penalties issued by the City, and to execute any and all documents, including releases, necessary for the settlement of such claims or lawsuits, when the monetary amount involved does not exceed an amount set forth by the Council in the ordinance. 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 incident, occasion, or taking complained of. All such settlements entered into pursuant to this section shall be reported to the City Council in a timely manner and shall be subject to the applicable provisions of the Public Records Law as set forth in Chapter 132 of the General Statutes."

SECTION 2. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 21st day of June, 2004.

Became law on the date it was ratified.

H.B. 1640**Session Law 2004-16**

AN ACT TO AUTHORIZE THE DARE COUNTY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE RENTAL HOUSING FOR TEACHERS AND OTHER LOCAL GOVERNMENTAL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 66-58, G.S. 115C-518, or any other provision of law, the Dare County Board of Education may enter into a lease, partnership, joint venture, or similar arrangement with the Outer Banks Community Development Corporation, Inc., The Affordable Housing Group of North Carolina, Inc., and/or other governmental and nonprofit entities interested in providing affordable housing, to construct and provide affordable housing on property owned or leased by the Dare County Board of Education. The affordable housing program shall include a priority for teachers. The projects may contain a mixture of below-market and at-market rental units.

SECTION 2. This act shall not exempt any affordable housing project constructed pursuant to this act from compliance with applicable building codes, zoning ordinances, and other health and safety statutes, rules, and regulations.

SECTION 3. This act authorizes up to three affordable housing projects, one on the beach area of Dare County north of Oregon Inlet, one on Hatteras Island, and one on the Roanoke Island/mainland section of Dare County.

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

In the General Assembly read three times and ratified this the 22nd day of June, 2004.

Became law on the date it was ratified.

S.B. 1096**Session Law 2004-17**

AN ACT TO ADJUST THE BOUNDARIES BETWEEN THE CITIES OF CONCORD AND KANNAPOLIS AS MUTUALLY AGREED UPON.

The General Assembly of North Carolina enacts:

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

CODDLE CREEK TREATMENT PLANT PROPERTY

That property is generally known as the Coddle Creek Treatment Plant Property and more particularly as Cabarrus County Parcel 4691567945. The boundary is described for location purposes using metes and bounds bearings and distances derived from Cabarrus County digital cadastral data dated September 23rd, 2003.

BEGINNING AT A CORNER on the existing municipal boundary line for the City of Kannapolis, said corner being the northeastern corner for Cabarrus County Parcel 4691581178 and being on the southern right of way for Davidson Highway, NC 73, said corner being located North 83-15-50 East 1,246 feet from the centerline intersection of Davidson highway, NC 73, and Riding Trail Lane in Cabarrus County, North Carolina, said corner being near the NAD 83 grid coordinates of 1495252 feet East and 618327 feet North based upon the Cabarrus County Parcel data acquired on September 23rd, 2003; thence easterly with the southern right of way for Davidson Highway, NC 73,

North 81-06-15 East 14.55 feet and North 81-02-34 East 83.90 feet to the northwestern corner for Cabarrus County Parcel 4691670620; thence following the boundaries for Cabarrus County Parcel 4691567945 the following calls: South 12-02-45 East 873.29 feet, South 88-07-07 East 630.09 feet, South 86-25-25 East 1.00 feet, South 88-07-59 East 90.17 feet, South 73-18-03 East 1.31 feet, South 74-42-07 East 189.98 feet, South 73-18-03 East 1.31 feet, South 87-52-10 East 99.19 feet, South 87-53-05 East 391.14 feet, South 05-16-56 West 143.92 feet, South 51-54-26 West 1683.16 feet, South 51-54-26 West 0.26 feet, North 28-34-59 West 125.41 feet, North 30-52-16 West 33.13 feet, North 31-36-27 West 66.78 feet, North 29-05-29 West 160.43 feet, North 28-36-38 West 12.53 feet, North 26-04-09 West 100.12 feet, North 21-42-57 West 62.16 feet, North 29-31-34 West 16.23 feet, North 33-19-35 West 10.92 feet, North 34-27-55 West 17.12 feet, North 34-27-55 West 34.13 feet, North 29-10-46 West 147.68 feet, North 22-34-01 West 5.21 feet, North 24-09-11 West 61.10 feet, North 22-10-24 West 143.08 feet, North 18-36-56 West 6.27 feet, North 25-30-18 West 125.41 feet, North 32-33-16 West 59.47 feet, North 25-18-35 West 14.03 feet, North 27-53-50 West 19.24 feet, North 34-34-33 West 24.67 feet, North 41-06-44 West 20.91 feet, North 41-06-44 West 24.72 feet, North 29-18-36 West 32.68 feet, North 48-11-45 West 17.44 feet, North 34-55-19 West 20.96 feet, North 23-26-30 West 25.14 feet, North 30-32-05 West 31.49 feet, North 15-53-29 West 36.52 feet, North 34-49-28 West 28.02 feet, South 88-19-34 East 96.29 feet, South 88-37-23 East 13.00 feet, South 88-39-16 East 55.89 feet, South 88-40-20 East 18.88 feet, South 88-06-23 East 351.82 feet, North 11-52-10 West 230.94 feet, North 11-52-56 West 112.92 feet, North 11-53-42 West 115.22 feet, North 11-54-06 West 113.95 feet, and North 11-55-49 West 273.92 feet to the **POINT OF BEGINNING**.

The tract described above encompasses 33.856 acres more or less.

The Tax Maps, Parcel identifications and other records used in the preparation of these descriptions are incorporated herein by reference.

SECTION 2. The following described property is removed from the corporate limits of the City of Kannapolis and is added to the corporate limits of the City of Concord:

PROPERTIES SOUTH OF ROXIE STREET

That property is generally known as the properties south of Roxie Street and more particularly as Cabarrus County Parcels 5622689204, 5622686154, 5622684055, 5622672947, and 5622670828. The boundary is described for location purposes using metes and bounds bearings and distances derived from Cabarrus County digital cadastral data dated September 23rd, 2003.

BEGINNING AT A CORNER on the existing municipal boundary line for the City of Kannapolis, said corner being within the right of way for Dale Earnhardt Boulevard in Cabarrus County, North Carolina, said corner being located South 19-46-55 East 71 feet from the centerline intersection of Dale Earnhardt Boulevard and the exit ramp for Interstate 85, said corner being near the NAD 83 grid coordinates of 1527061 feet East and 628360 feet North based upon the Cabarrus County Parcel data acquired on September 23rd, 2003; thence southerly with the centerline of Dale Earnhardt Boulevard the following calls: South 31-12-11 East 11.17 feet, South 31-12-11 East 7.66 feet, and South 31-12-11 East 76.24 feet to a point with the right of way for Dale Earnhardt Boulevard; thence westerly with the southern boundaries for Cabarrus County Parcels 5622689204, 5622686154, 5622684055, 5622672947, and 5622670828 the following calls: South 62-14-42 West 45.77 feet, South 67-04-01 West 306.20 feet, South 67-04-08 West 228.43 feet, South 67-03-38 West 108.82 feet, South 67-03-38 West

99.80 feet, South 67-03-19 West 239.04 feet, South 67-03-00 West 71.78 feet, South 67-03-00 West 85.14 feet, and South 67-05-37 West 78.84 to the southernmost corner for Cabarrus County Parcel 5622670828; thence northerly with the western boundary for Cabarrus County Parcel 5622670828 the following calls: North 33-41-24 West 1.58 feet, North 32-54-43 West 85.36 feet, North 32-54-43 West 25.70 feet, and North 32-54-43 West 49.75 feet to the northwestern corner for Cabarrus County Parcel 5622670828, said corner being on the southern right of way for Roxie Street; thence easterly with the southern right of way for Roxie Street the following calls: North 72-26-47 East 96.36 feet, North 70-34-38 East 22.93 feet, North 70-38-28 East 117.65 feet, North 70-01-01 East 2.93 feet, North 69-45-06 East 29.98 feet, North 69-43-20 East 30.12 feet, North 69-29-04 East 206.34 feet, North 69-08-44 East 2.81 feet, North 69-29-07 East 76.21 feet, North 69-29-07 East 126.92 feet, North 69-05-55 East 213.55 feet, North 69-04-32 East 20.48 feet, North 69-51-10 East 20.50 feet, North 69-52-38 East 280.50 feet, and North 68-27-18 East 32.52 feet to the **POINT OF BEGINNING**.

The tract described above encompasses 3.651 acres more or less.

The Tax Maps, Parcel identifications and other records used in the preparation of these descriptions are incorporated herein by reference.

SECTION 3. The following described property is removed from the corporate limits of the City of Concord and is added to the corporate limits of the City of Kannapolis:

PROPERTIES NORTH OF ROXIE STREET

That property is generally known as the properties north of Roxie Street and more particularly as Cabarrus County Parcels 5622587061, 5622574958, 5622571902, 5622478889, 5622477806, and 5622581188. The boundary is described for location purposes using metes and bounds bearings and distances derived from Cabarrus County digital cadastral data dated September 23rd, 2003.

BEGINNING AT A CORNER on the existing municipal boundary line for the City of Kannapolis, said corner being in the southern right of way for Roxie Street, said point being the northwestern corner for Cabarrus County Parcel 5622670828, said corner being near the NAD 83 grid coordinates of 1525860 feet East and 627919 feet North based upon the Cabarrus County Parcel data acquired on September 23rd, 2003, said corner being located South 66-38-04 West 1,282 feet from the centerline intersection of Dale Earnhardt Boulevard and the exit ramp for Interstate 85; thence easterly with the southern right of way for Roxie Street the following calls: North 19-42-57 West 100.78 feet, North 19-41-11 West 239.12 feet, North 19-41-11 West 0.01 feet, North 19-41-11 West 12.45 feet, North 57-17-40 East 86.75 feet, North 57-17-00 East 420.45 feet, North 57-11-49 East 19.04 feet, North 58-13-17 East 30.14 feet, North 58-09-03 East 310.79 feet, North 58-08-24 East 41.80 feet, North 57-01-52 East 147.35 feet, South 33-06-46 East 1.05 feet, North 47-16-46 East 0.75 feet, South 32-10-41 East 45.21 feet, South 33-06-46 East 39.90 feet, South 33-11-45 East 60.27 feet, South 31-45-06 East 81.84 feet, South 32-38-47 East 197.89 feet, South 67-02-31 West 0.89 feet, South 32-03-22 East 134.95 feet, North 06-13-33 East 3.46 feet, South 32-56-35 East 18.61 feet, South 32-56-35 East 58.55 feet, South 32-56-35 East 39.84 feet, South 32-57-56 East 71.53 feet, and South 32-57-56 East 13.46 feet to the **POINT OF BEGINNING**.

The tract described above encompasses 14.613 acres more or less.

The Tax Maps, Parcel identifications and other records used in the preparation of these descriptions are incorporated herein by reference.

SECTION 4. Section 3 of this act shall have no effect upon the validity of any liens of the City of Concord for ad valorem taxes or special assessments outstanding

before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Concord.

SECTION 5. Sections 1 and 2 of this act shall have no effect upon the validity of any liens of the City of Kannapolis for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Kannapolis.

SECTION 6. This act becomes effective June 30, 2004.

In the General Assembly read three times and ratified this the 24th day of June, 2004.

Became law on the date it was ratified.

S.B. 1125

Session Law 2004-18

AN ACT TO ABOLISH THE OFFICE OF CORONER IN JOHNSTON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The office of coroner in Johnston County is abolished.

SECTION 2. Chapter 152 of the General Statutes is not applicable to Johnston County.

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

In the General Assembly read three times and ratified this the 24th day of June, 2004.

Became law on the date it was ratified.

S.B. 1133

Session Law 2004-19

AN ACT AMENDING THE CHARTER OF THE VILLAGE OF MISENHEIMER TO ALLOW FOR MUNICIPAL ELECTIONS IN ODD-NUMBERED YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of S.L. 2003-268 reads as rewritten:

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in ~~2004-2005~~ 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 ~~2004-2005~~."

SECTION 2. Section 3.3 of S.L. 2003-268 reads as rewritten:

"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 ~~2004,2005~~, 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 ~~2006,2007,~~ and quadrennially thereafter, two members shall be elected to four-year terms. In ~~2008,2009,~~ and quadrennially thereafter, three members shall be elected to four-year terms."

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

In the General Assembly read three times and ratified this the 24th day of June, 2004.

Became law on the date it was ratified.

H.B. 1608

Session Law 2004-20

AN ACT TO AMEND THE GREENSBORO CITY CHARTER SO THE CITY CAN FOLLOW THE GENERAL LAW ON NOTICE OF ADOPTION OF ORDINANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.42(c) of the Charter of the City of Greensboro, being Chapter 1137 of the 1959 Session Laws, is repealed.

SECTION 2. This act is effective when it becomes law and applies to ordinances adopted on or after that date.

In the General Assembly read three times and ratified this the 24th day of June, 2004.

Became law on the date it was ratified.

H.B. 1497

Session Law 2004-21

AN ACT TO ADOPT A FLAT COLLECTION ASSISTANCE FEE UNDER THE SETOFF DEBT COLLECTION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105A-13(a) reads as rewritten:

"(a) State Setoff. – To recover the costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee of ~~no more than fifteen-five~~ five dollars ~~(\$15.00)~~ (\$5.00) is imposed on each debt collected through setoff. The Department must collect this fee as part of the debt and retain it. ~~The Department must set the amount of the collection assistance fee based on its actual cost of collection under this Chapter for the immediately preceding year.~~ The collection assistance fee shall not be added to child support debts or collected as part of child support debts. Instead, the Department shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child support debts under this Chapter."

SECTION 2. This act becomes effective for fees assessed on or after January 1, 2005.

In the General Assembly read three times and ratified this the 15th day of June, 2004.

Became law upon approval of the Governor at 12:04 p.m. on the 25th day of June, 2004.

AN ACT TO REQUIRE THAT SELLERS BE PROVIDED WITH NOTICE AND A SIXTY-DAY PERIOD TO RESPOND TO A REQUEST FOR A REFUND OF OVER-COLLECTED SALES OR USE TAXES BEFORE A PURCHASER MAY BRING A CAUSE OF ACTION AGAINST THE SELLER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.11 reads as rewritten:

"§ 105-164.11. Excessive and erroneous collections.

(a) Remittance of Over-Collections to Secretary. – When the tax collected for any period is in excess of the total amount that should have been collected, the total amount collected must be paid over to the Secretary. When tax is collected for any period on exempt or nontaxable sales the tax erroneously collected shall be remitted to the Secretary and no refund shall be made to a taxpayer unless the purchaser has received credit for or has been refunded the amount of tax erroneously charged. This provision shall be construed with other provisions of this Article and given effect so as to result in the payment to the Secretary of the total amount collected as tax if it is in excess of the amount that should have been collected.

(b) Refund Procedures First Remedy. – The first course of remedy available to purchasers seeking a refund of over-collected sales or use taxes from the seller are the customer refund procedures provided in this Chapter or otherwise provided by administrative rule, bulletin, or directive on the law issued by the Secretary.

(c) Cause of Action Against Seller. – A cause of action against the seller for over-collected sales or uses taxes does not accrue until a purchaser has provided written notice to a seller and the seller has had 60 days to respond. The notice to the seller must contain the information necessary to determine the validity of the request.

(d) Presumption of Reasonable Business Practice. – In connection with a purchaser's request from the seller of over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice if, in the collection of sales and use taxes, the seller uses either a provider or a system, including a proprietary system, that is certified by the State and the seller has remitted to the State all taxes collected less any deductions, credits, or collection allowances."

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

In the General Assembly read three times and ratified this the 16th day of June, 2004.

Became law upon approval of the Governor at 12:05 p.m. on the 25th day of June, 2004.

AN ACT TO PROVIDE THAT AN ORDER ISSUED BY THE CLERK OF COURT, THE MAGISTRATE, OR THE COURT FOR CUSTODY RELATING TO INVOLUNTARY COMMITMENT IS VALID THROUGHOUT THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 122C-261(e) reads as rewritten:

"(e) Upon receipt of the custody order of the clerk or magistrate or a custody order issued by the court pursuant to G.S. 15A-1003, a law enforcement officer or other

person designated in the order shall take the respondent into custody within 24 hours after the order is signed, and proceed according to G.S. 122C-263. The custody order is valid throughout the State."

SECTION 1.(b) G.S. 122C-281(e) reads as rewritten:

"(e) Upon receipt of the custody order of the clerk or magistrate, a law-enforcement officer or other person designated in the order shall take the respondent into custody within 24 hours after the order is signed. The custody order is valid throughout the State."

SECTION 2.(a) G.S. 122C-265(a) reads as rewritten:

"§ 122C-265. Outpatient commitment; examination and treatment pending hearing.

(a) If a respondent, who has been recommended for outpatient commitment by an examining physician or eligible psychologist different from the proposed outpatient treatment physician or center, fails to appear for examination by the proposed outpatient treatment physician or center at the designated time, the physician or center shall notify the clerk of superior court who shall issue an order to a law-enforcement officer or other person authorized under G.S. 122C-251 to take the respondent into custody and take him immediately to the outpatient treatment physician or center for evaluation. The custody order is valid throughout the State. The law-enforcement officer may wait during the examination and return the respondent to his home after the examination."

SECTION 2.(b) G.S. 122C-273(a)(2) reads as rewritten:

"§ 122C-273. Duties for follow-up on commitment order.

(a) Unless prohibited by Chapter 90 of the General Statutes, if the commitment order directs outpatient treatment, the outpatient treatment physician may prescribe or administer, or the center may administer, to the respondent reasonable and appropriate medication and treatment that are consistent with accepted medical standards.

...
 (2) If the respondent fails to comply, but does not clearly refuse to comply, with all or part of the prescribed treatment after reasonable effort to solicit the respondent's compliance, the physician, the physician's designee, or the center may request the court to order the respondent taken into custody for the purpose of examination. Upon receipt of this request, the clerk shall issue an order to a law-enforcement officer to take the respondent into custody and to take him immediately to the designated outpatient treatment physician or center for examination. The custody order is valid throughout the State. The law-enforcement officer shall turn the respondent over to the custody of the physician or center who shall conduct the examination and then release the respondent. The law-enforcement officer may wait during the examination and return the respondent to his home after the examination. An examination conducted under this subsection in which a physician or eligible psychologist determines that the respondent meets the criteria for inpatient commitment may be substituted for the first examination required by G.S. 122C-263 if the clerk or magistrate issues a custody order within six hours after the examination was performed.

...."

SECTION 2.(c) G.S. 122C-290(b) reads as rewritten:

"(b) If the respondent whose treatment is provided on an outpatient basis fails to comply with all or part of the prescribed treatment after reasonable effort to solicit the respondent's compliance or whose treatment is provided on an inpatient basis is discharged in accordance with G.S. 122C-205.1(b), the area authority or physician may request the clerk or magistrate to order the respondent taken into custody for the purpose of examination. Upon receipt of this request, the clerk or magistrate shall issue an order to a law enforcement officer to take the respondent into custody and to take him immediately to the designated area authority or physician for examination. The custody order is valid throughout the State. The law enforcement officer shall turn the respondent over to the custody of the physician or area authority who shall conduct the examination and release the respondent or have the respondent taken to a 24-hour facility upon a determination that treatment in the facility will benefit the respondent. Transportation to the 24-hour facility shall be provided as specified in G.S. 122C-251, upon notice to the clerk or magistrate that transportation is necessary, or as provided in G.S. 122C-408(b). If placement in a 24-hour facility is to exceed 45 consecutive days, the area authority or physician shall notify the clerk of court by the 30th day and request a supplemental hearing as specified in G.S. 122C-291."

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

In the General Assembly read three times and ratified this the 21st day of June, 2004.

Became law upon approval of the Governor at 12:06 p.m. on the 25th day of June, 2004.

H.B. 1574

Session Law 2004-24

AN ACT TO AUTHORIZE THE ADDITION OF THE LOWER HAW RIVER STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, AND TO DIRECT THE DIVISION OF PARKS AND RECREATION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE FEASIBILITY AND DESIRABILITY OF ESTABLISHING A STATE RECREATION AREA AT BLEWETT FALLS LAKE.

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 Lower Haw River in Chatham County is considered nationally significant for its biological resources, including several rare species and possesses biological, scenic, and recreational resources of statewide significance; and

Whereas, the Division of Parks and Recreation of the Department of Environment and Natural Resources has identified the Lower Pee Dee, which includes

Blewett Falls Lake, as the highest ranked candidate for establishment of a State Recreation Area; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly authorizes the Department of Environment and Natural Resources to add the Lower Haw River State Natural Area to the State Parks System as provided by G.S. 113-44.14(b).

SECTION 2. The Division of Parks and Recreation of the Department of Environment and Natural Resources shall study the feasibility and the desirability of acquiring land and establishing a State Recreation Area at Blewett Falls Lake. The study shall include estimates of the cost of developing the proposed recreation area. The Division shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before 1 December 2005.

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

In the General Assembly read three times and ratified this the 17th day of June, 2004.

Became law upon approval of the Governor at 12:07 p.m. on the 25th day of June, 2004.

H.B. 1607

Session Law 2004-25

AN ACT TO REMOVE A PORTION OF HEMLOCK BLUFFS STATE NATURAL AREA FROM THE STATE NATURE AND HISTORIC PRESERVE AND THE STATE PARKS SYSTEM TO PROVIDE A RIGHT-OF-WAY FOR THE WIDENING OF KILDAIRE FARM ROAD IN THE TOWN OF CARY, AND TO REMOVE THE HORNE CREEK LIVING HISTORICAL FARM LOCATED WITHIN PILOT MOUNTAIN STATE PARK FROM THE STATE PARKS SYSTEM IN ORDER TO ALLOW THE PROPERTY TO BE REALLOCATED TO THE DEPARTMENT OF CULTURAL RESOURCES FOR USE AS A STATE HISTORIC SITE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

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, 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. 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: The portion of that certain tract or parcel of land at Hemlock Bluffs

State Natural Area in Wake County, Swift Creek Township, described in Deed Book 2461, Page 037, containing 2,025 square feet and being the portion of this tract shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 1 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office; and the portion of those certain tracts or parcels of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 4670, Page 420, containing 24,092 square feet and being the portion of these tracts shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 3 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office.

SECTION 2. 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 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, 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.

...

- (18) All land and waters within the boundaries of Hemlock Bluffs State Natural Area as of 6 May 2003, with the exception of the following tracts: The portion of that certain tract or parcel of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 2461, Page 037, containing 2,025 square feet and being the portion of this tract shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 1 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office; and the portion of those certain tracts or parcels of land at

Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 4670, Page 420, containing 24,092 square feet and being the portion of these tracts shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 3 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are 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 Hemlock Bluffs State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land."

SECTION 3. The following tract is removed from the State Parks System pursuant to G.S. 113-44.14: The portion of that certain tract or parcel of land at Pilot Mountain State Park in Surry County, Shoals Township, described in Plat Book 21, Page 76, containing 104.280 acres, and shown as the "Horne Creek Living Historical Park" on the drawing prepared by Joe L. Cooke, bearing the preparer's file name Dwg. 3/331, dated 23 March 2004, and filed with the State Property Office. This property may be reallocated to the Department of Cultural Resources for its use of the property as the Horne Creek Living Historical Farm State Historic Site. This property will remain in the State Nature and Historic Preserve.

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 removed from the State Nature and Historic Preserve by this act is located.

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

In the General Assembly read three times and ratified this the 17th day of June, 2004.

Became law upon approval of the Governor at 12:09 p.m. on the 25th day of June, 2004.

H.B. 1373

Session Law 2004-26

AN ACT TO INCREASE THE CLASSIFICATION OF ASSAULTING A PRIVATE CONTRACTOR EMPLOYED AS A PUBLIC TRANSPORTATION OPERATOR FROM A CLASS 2 MISDEMEANOR TO A CLASS A1 MISDEMEANOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-33(c) is amended by adding a new subdivision to read:

"(7) Assaults a public transit operator, including a public employee or a private contractor employed as a public transit operator, when the operator is discharging or attempting to discharge his or her duties."

SECTION 2. This act becomes effective December 1, 2004, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 17th day of June, 2004.

Became law upon approval of the Governor at 12:10 p.m. on the 25th day of June, 2004.

S.B. 1122**Session Law 2004-27**

AN ACT TO AUTHORIZE THE TOWN OF CHAPEL HILL TO POSTPONE FOR EIGHTEEN 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. G.S. 160A-381(d), as it applies under S.L. 2003-237 to the Town of Chapel Hill and 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, reads as rewritten:

"(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~~ 18 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~~ 18 months, the owner and applicant for the special use permit or site plan development may treat the land as freed of the reservation."

SECTION 2. This act is effective when it becomes law and applies to special use permits and site plan developments approved on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1364**Session Law 2004-28**

AN ACT TO PROVIDE THAT TRANSYLVANIA COUNTY MAY PURCHASE AND CONVEY PROPERTY TO THE STATE FOR USE AS CORRECTIONAL FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(a) of Chapter 600 of the 1995 Session Laws, as amended by S.L. 2000-31 and S.L. 2002-85 reads as rewritten:

"Section 1.(a) The Counties of Alexander, Anson, Bertie, Columbus, Greene, Scotland, ~~and Stanly~~ Stanly, and Transylvania have power under 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 correctional facilities."

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

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1425**Session Law 2004-29**

AN ACT TO ALLOW THE BROUGHTON POLICE DEPARTMENT TO ENTER INTO MUTUAL AID AGREEMENTS WITH THE CITY OF MORGANTON POLICE DEPARTMENT AND THE BURKE COUNTY SHERIFF'S OFFICE, AND TO ALLOW THE BROUGHTON POLICE DEPARTMENT TO EXERCISE ITS POWERS AT WESTERN PIEDMONT COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Broughton Police Department (the "joint security force" created under G.S. 122C-430) shall be considered a law enforcement agency under G.S. 160A-288(b)(2).

SECTION 1.(b) This section applies only to the City of Morganton and to Burke County.

SECTION 2.(a) G.S. 122C-430 reads as rewritten:

"§ 122C-430. Joint security force.

(a) The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Broughton Hospital, North Carolina School for the Deaf, Western Regional Vocational Rehabilitation Facility, Western Carolina Center, and the surrounding grounds and land adjacent to Broughton Hospital allocated to the Department of Agriculture and Consumer Services, all in Burke County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory embraced by the named facilities. These special police officers may arrest persons outside the territory of the named institutions but within the confines of Burke County when the person arrested has committed a criminal offense within that territory for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory.

(b) With the agreement of the board of trustees of Western Piedmont Community College and the Department of Health and Human Services, these special police officers may exercise any and all of the powers enumerated in this Part upon or in pursuit from the property owned or operated (or both) by the trustees of Western Piedmont Community College."

SECTION 2.(b) This section applies only in Burke County.

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

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1447

Session Law 2004-30

AN ACT AFFECTING THE REGULATION OF ABANDONED OR JUNKED MOTOR VEHICLES IN THE CITIES OF GREENVILLE AND HENDERSON AND THE TOWN OF WAYNESVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-303.2(a) reads as rewritten:

"(a) A municipality may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in G.S. 136-143.

For purposes of this section, the term "junked motor vehicle" means a vehicle that does not display a current license plate and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than ~~one hundred dollars (\$100.00)~~ five hundred dollars (\$500.00)."

SECTION 2. This act applies to the Cities of Greenville and Henderson and the Town of Waynesville only.

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

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1471

Session Law 2004-31

AN ACT TO DEANNEX TWO DESCRIBED PARCELS FROM THE CORPORATE LIMITS OF THE TOWN OF BAKERSVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Bakersville are reduced by excluding the following described parcel:

In Bakersville Township, Mitchell County, North Carolina and more particularly described as follows:

BEGINNING on a small chestnut, Bowman's corner and runs with said line 78 poles to a White Oak corner, to Fortner or Arthur Wilson's line; thence north 50 poles to a White Oak in the edge of the Laurels; thence south 50 east 20 poles to a large Spanish Oak on top of the ridge; thence north 64 east 70 poles to a stake, on the Bowman line; thence south with said line 70 poles to the BEGINNING, containing 26 acres, more or less. For title reference see Book 128 at page 133, Book 151 at page 396. Mitchell County Registry.

In Bakersfield Township, Mitchell County, described as follows: BEGINNING on a stake in the J.C. McBee line and runs S 5 degrees W 140.6 feet to a stake; thence S 36 degrees E 142.5 feet to a large oak, Jim Slagle's corner; leaving the McBee line, runs S 82 degrees E 290 feet to a locust stake on the West side of Honeycutt Creek Road, James Yelton's corner; thence N 25 degrees 30 minutes W 124.6 feet to a stake; thence N 41 degrees W 75.4 feet to a pear tree; thence N 25 degrees 30 minutes E 109.5 feet to a locust fence stake; thence S 62 degrees E 57 feet to a stake, Jim McKinney's corner; thence with the McKinney line N 5 degrees 40 minutes E 205 feet to a locust stump, Junior Carver's corner; thence N 50 degrees 25 minutes W 147.2 feet to a stake near the private road; thence N 42 degrees 20 minutes E 103.4 feet to a stake; thence S 48 degrees 10 minutes E 196 feet to a stake; thence S 76 degrees 25 minutes E 57.7 feet to a stake; thence N 85 degrees 50 minutes E 85.9 feet to a stake; thence N 72 degrees 25 minutes E 93.2 feet to a stake at intersection of private road and Junior Carver drive; leaving intersection, S 27 degrees 25 minutes E 67.1 feet to a point on West margin of Honeycutt Road pavement; thence N 13 degrees E 198 feet to an iron; thence running with the road as follows: S 27 degrees W 120 feet; S 61 degrees W 75 feet; S 79 degrees 30 minutes W 120 feet; N 72 degrees W 73 feet; N 50 degrees W 170 feet; N 89 degrees 30 minutes W 56 feet; S 39 degrees W 175 feet; S 11 degrees W 167 feet; S 27 degrees W 73 feet; N 89 degrees 30 minutes W 88 feet; N 15 degrees 30 minutes W 58 feet to the BEGINNING, containing 3.8 acres, more or less.

SECTION 2. This act does not affect the duty to pay taxes for any prior year and does not eliminate any liens for taxes for prior years.

SECTION 3. This act becomes effective June 30, 2004.

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1553

Session Law 2004-32

AN ACT TO RATIFY THE BOUNDARIES OF THE TOWN OF GRIMESLAND
BASED ON A NEW SURVEY ALONG THE EXISTING COMMONLY
RECOGNIZED BOUNDARY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 222 of the 1893 Session Laws is rewritten to read:

"TOWN LIMITS BOUNDARY DESCRIPTION

BEGINNING at a point along the northern right of way line of N.C. Highway 33 and also being the south corner of Pitt County tax parcel 048511, the owner thereof being listed as Trustees of Pentecostal Holiness Church (said point controlled by a concrete monument set at N50°00'00"W 25.0 feet from said point); thence from said POINT OF BEGINNING continuing southwest across N.C. Highway 33 to a point on the southern right of way line of N.C. Highway 33, said point being the northwest corner of Pitt County tax parcel 006965, the owner thereof being listed as Thomas S. and Mary Gentile; thence continuing southwest approximately 123 feet along the boundary of said parcel 006965 to a corner of the parcel 006965; thence continuing southeast approximately 133 feet along the boundary of said parcel 006965 to a corner of the parcel 006965; thence continuing southwest approximately 59 feet along the boundary of said parcel 006965 to a corner of the parcel 006965; thence continuing southeast approximately 200 feet along the boundary of said parcel 006965 to a corner of the parcel 006965; thence continuing southwest approximately 162 feet along the boundary of said parcel 006965 to a corner of the parcel 006965, said corner also being the north corner of Pitt County tax parcel 033394, the owner thereof being listed as Mary Frances N. and Gerald Edwin Whitley; thence continuing approximately 212 feet along the west boundary of said parcel 033394 to the west corner of the parcel 033394; thence continuing approximately 195 feet along the south boundary of said parcel 033394 to the south corner of the parcel 033394; thence continuing approximately 198 feet along the east boundary of said parcel 033394 to the east corner of the parcel 033394; said corner also being the west corner of Pitt County tax parcel 048140, the owner thereof being listed as Thomas S. and Mary Gentile; thence continuing approximately 68 feet along the south boundary of said parcel 048140 to the south corner of the parcel 048140, said corner also being the west corner of Pitt County tax parcel 048131, the owner thereof being listed as Lelon A. Moore; thence continuing approximately 19 feet along the south boundary of said parcel 048131 to a point, said point being the north corner of Pitt County tax parcel 014593, the owner thereof being listed as Jenette B. Mayo; thence continuing approximately 141 feet along the west boundary of said parcel 014593 to the west corner of the parcel 014593, said corner also being the north corner of Pitt County tax parcel 014597, the owner thereof being listed as Lewis David Landen; thence continuing approximately 354 feet along the west boundary of said parcel 014597 to a point, said point also being the north corner of Pitt County tax parcel 034690, the owner thereof being listed as Lewis David Landen; thence continuing approximately 220 feet along the west boundary of said parcel 034690 to the west corner of the parcel 034690; thence continuing approximately 179 feet along the south boundary of said parcel 034690 to a point, said point also being a south corner of Pitt County tax parcel 014597, the owner thereof being listed as Lewis David Landen; thence continuing approximately 39 feet to a south corner of the parcel 014597; thence continuing south-southeast approximately 2,230 feet to the west corner of Pitt County tax parcel 034034, the owner being listed as William Howard, (Jr.) and Mildred M. Cherry; thence continuing approximately 213 feet along the south boundary of said parcel 034034 to the south corner of the parcel 034034, also being a point on the western right of way line of North Carolina Secondary Road 1777 (Chicod Street) (said point controlled by a concrete monument set at N49°00'00"E 5.0 feet from said point); thence continuing perpendicular across the right of way of North Carolina Secondary Road 1777 to a point on the east right of way line of North Carolina Secondary Road 1777; thence continuing east approximately 741 feet to a point on the west right of way line of North Carolina Secondary Road 1565 (Beaufort Street); thence continuing

perpendicular across the right of way of North Carolina Secondary Road 1565 to a point on the east right of way line of North Carolina Secondary Road 1565, said point also being the west corner of Pitt County tax parcel 047448, the owner thereof being listed as Mary Frances N. and Gerald Edwin Whitley (said point controlled by a concrete monument set at N37°00'00"E 5.0 feet from said point); thence continuing approximately 202 feet along the southwest boundary of said parcel 047448 to the south corner of the parcel 047448; thence continuing east-northeast approximately 3,174 feet to the south corner of Pitt County tax parcel 011667, the owner thereof being listed as George William Huntley; thence continuing approximately 213 feet along the east boundary of said parcel 011667 to the east corner of the parcel 011667, said corner also being the north corner of Pitt County tax parcel 046974, the owner thereof being listed as Viola Godley Buck life estate; thence continuing approximately 184 feet along the north boundary of said parcel 046974, also being the south, right of way line of N.C. Highway 33, to a corner of the parcel 046974; thence continuing north-northeast across the N.C. Highway 33 right of way to a point along the north right of way line of N.C. Highway 33, said point being the south corner of Pitt County tax parcel 048498, the owner thereof being listed as Lewis Elmore and Ruby G. Hodges (said point controlled by a concrete monument set on the northern right of way of NC Highway 33 15.0 west of said point); thence continuing approximately 29 feet along the east boundary of said parcel 048498 to a point, said point being a south corner of Pitt County tax parcel 054434, the owner thereof being listed as Lewis Elmore and Ruby G. Hodges; thence continuing approximately 363 feet to the east corner of the parcel 054434, also being a point on the south right of way line of Norfolk Southern Railroad; thence continuing on the same bearing across the Norfolk Southern Railroad right of way to a point on the north right of way line of Norfolk Southern Railroad; thence continuing in a northwest direction approximately 914 feet along the north right of way line of Norfolk Southern Railroad to a point on the east right of way line of North Carolina Secondary Road 1568 (Mount Calvert Street), said point being the intersection of the north right of way line of Norfolk Southern Railroad and the east right of way line of North Carolina Secondary Road 1568; thence continuing approximately 202 feet along the east right of way line of North Carolina Secondary Road 1568 (Mount Calvert Street) to a point, said point being the southwest corner of Pitt County tax parcel 019726, the owner thereof being listed as Oriental Lodge - No. 76 F. and A.M.; Trustees; thence continuing northwest across North Carolina Secondary Road 1568 (Mount Calvert Street) to a point on the west right of way line of North Carolina Secondary Road 1568 (Mount Calvert Street), said point being the east corner of Pitt County tax parcel 001086, the owner thereof being listed as Betty Lou Barr and Elijah Crandell, et al; thence continuing approximately 111 feet northwest along the boundary of said parcel 001086 to a point also being a corner of Pitt County tax parcel 049407, the owner thereof being listed as Betty Lou Barr and Elijah Crandell, et al; thence continuing approximately 41 feet northwest along the boundary of said parcel 049407 to a corner of the parcel 049407; thence continuing approximately 30 feet north-northeast along the boundary of said parcel 049407 to a point also being a corner of Pitt County tax parcel 001086, the owner thereof being listed as Betty Lou Barr and Elijah Crandell, et al; thence continuing approximately 16 feet north-northeast along the boundary of said parcel 001086 to a corner of the parcel 001086; thence continuing approximately 23 feet northwest along the boundary of said parcel 001086 to a point also being a corner of Pitt County tax parcel 049407, the owner thereof being listed as Betty Lou Barr and Elijah Crandell, et al; thence continuing approximately 34 feet northwest along the boundary of said parcel 049407 to a corner of the parcel

049407; thence continuing approximately 92 feet northwest along the boundary of said parcel 049407, said corner being a point on the east right of way line of Mount Hope Street; thence continuing north approximately 130 feet along the east right of way line of Mount Hope Street to a point, said point being the intersection of the east right of way line of Mount Hope Street and the south right of way line of Tar Street; thence continuing northwest approximately 902 feet to a point on the south right of way line of North Carolina Secondary Road 1568 (Bryant Street), said point being perpendicular across the right of way of North Carolina Secondary Road 1568 (Bryant Street) from the southeast corner of Pitt County tax parcel 055723, the owner thereof being listed as Patricia M. Harvey; thence continuing northeast across North Carolina Secondary Road 1568 (Bryant Street) to a point on the northern right of way line of North Carolina Secondary Road 1568, said point being the southeast corner of said parcel 055723; thence continuing approximately 198 feet along the east boundary of said parcel 055723 to the east corner of the parcel 055723; thence continuing approximately 82 feet along the north boundary of said parcel 055723 to the north corner of the parcel 055723, said corner also being a point on the east right of way line of Silverado Drive; thence continuing across Silverado Drive to a point on the west right of way line of Silverado Drive; said point also being the east corner of Pitt County tax parcel 048509, the owner thereof being listed as Larry C. and Claudia W. Brown; thence continuing approximately 241 feet along the north boundary of said parcel 048509 to the north corner of the parcel 048509, said corner also being a corner of Pitt County tax parcel 048504, the owner thereof being listed as Johnny L. and Hattie L. Daniels; thence continuing approximately 50 feet along the east boundary of said parcel 048504 to a point, said point also being a southeast corner of Pitt County tax parcel 035212, the owner thereof being listed as Johnny L. and Hattie L. Daniels; thence continuing approximately 102 feet along the east boundary of said parcel 035212 to a corner of the parcel 035212; thence continuing approximately 71 feet to the northeast corner of the parcel 035212; thence continuing approximately 5 feet along the north boundary of said parcel 035212 to a corner; thence continuing approximately 50 feet along the north boundary of said parcel 035212 to the northwest corner of the parcel 035212; thence continuing approximately 173 feet along the west boundary of said parcel 035212 to the west corner of the parcel 035212, said corner also being the east corner of Pitt County tax parcel 038228, the owner thereof being listed as Evelyn Littles; thence continuing approximately 233 feet along the north boundary of said parcel 038228 to the north corner of the parcel 038228, said corner also being a point on the east right of way line of North Carolina Secondary Road 1565 (Beaufort Street) (said point controlled by a concrete monument set at said point); thence continuing across North Carolina Secondary Road 1565 to a point on the west right of way line of North Carolina Secondary Road 1565, said point being perpendicular across the right of way of North Carolina Secondary Road 1565 from the north corner of the parcel 038228; thence continuing approximately 58 feet south along the west right of way line of North Carolina Secondary Road 1565 to the east corner of Pitt County tax parcel 016435, the owner thereof being listed as Evelyn M. Littles; thence continuing approximately 127 feet along the north boundary of said parcel 016435 to a point, said point also being the east corner of Pitt County tax parcel 048505, the owner thereof being listed as Evelyn M. Littles; thence continuing approximately 59 feet along the northeast boundary of said parcel 048505 to the north corner of the parcel 048508, said corner also being a point on the east boundary of Pitt County tax parcel 048507, the owner thereof being listed as James Daniels Sr. Heirs; thence continuing approximately 5 feet along the east

boundary of said parcel 048507 to the east corner of the parcel 048507; thence continuing approximately 79 feet along the north boundary of said parcel 048507 to the north corner of the parcel 048507, said corner also being the east corner of Pitt County tax parcel 003004, the owner thereof being listed as Bobby Earl Bullock; thence continuing approximately 108 feet along the north boundary of said parcel 003004 to the north corner of the parcel 003004; thence continuing approximately 190 feet along the west boundary of said parcel 003004 to a point, said point also being the north corner of Pitt County tax parcel 048506, the owner thereof being listed as Bobby Earl Bullock; thence continuing approximately 102 feet along the west boundary of said parcel 048506 to the west corner of the parcel 048506; thence continuing west-northwest approximately 1,376 feet to a point on the north right of way line of the Norfolk Southern Railroad, said point being perpendicular to the east corner of Pitt County tax parcel 026504, the owner thereof being listed as Rupert Spencer 5 and Liddie S. Hill; thence continuing perpendicular across the Norfolk Southern Railroad right of way to a point on the south right of way line of Norfolk Southern Railroad, said point being the east corner of the parcel 026504; thence continuing approximately 394 feet along the south right of way line of Norfolk Southern Railroad to a point, said point also being the north corner of Pitt County tax parcel 048513, the owner thereof being listed as Pearly A. and Thomas A. West; thence continuing approximately 82 feet along the northwest boundary of said parcel 048513 to a point, said point also being the north corner of Pitt County tax parcel 026503, the owner thereof being listed as Pearly A. and Thomas A. West; thence continuing approximately 92 feet along the northwest boundary of said parcel 026503 to the west corner of the parcel 026503; thence continuing west-northwest approximately 1,416 feet to the POINT OF BEGINNING containing approximately 349.90 acres as shown on map Z2245 prepared by Rivers and Associates, Inc., Greenville, North Carolina dated September 18, 2003 entitled "Map of Town of Grimesland Corporate Limits" and recorded in map book 60, page 68 of the Pitt County, North Carolina registry, and as also shown on map W-2622 prepared by Rivers and Associates, Inc., Greenville, North Carolina dated October 2, 2002 entitled "Map of Proposed Town Limits Redefinition", revision 7, dated September 11, 2003 both of which by reference are made a part hereof."

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

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1569

Session Law 2004-33

AN ACT REPEALING THE AUTHORITY OF COLUMBUS COUNTY 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. Section 4 of S.L. 2003-270 reads as rewritten:

"**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 County and to municipalities located wholly or partially within Columbus County."

SECTION 2. This act applies only to Columbus County and the municipalities therein.

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

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1619

Session Law 2004-34

AN ACT TO AMEND THE CHARTER OF THE TOWN OF ELIZABETHTOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 99, Private Laws of 1901, reads as rewritten:

"SEC. 2. That section 2 of said chapter is hereby repealed and the following substituted in lieu thereof, viz.: "That the officers of said town shall consist of Mayor, ~~three-six~~ six Commissioners, ~~a Town Constable,~~ regular an special policemen, ~~and a Clerk and Treasurer,~~ a Clerk, and such other officers as the Town Commissioners may elect, and the following-named persons shall fill the offices of Mayor and Commissioners from the first Monday in May, 1901, until the first Monday in May, 1903, and until their successors are elected and qualified: For mayor, R.S. White; for Commissioners, Jno. W. Hall, D.L. Smith and H.J. Lyon."

SECTION 2. Section 3 of Chapter 99, Private Laws of 1901, is repealed.

SECTION 3. The Charter of the Town of Elizabethtown, being Chapter 156, Private Laws of 1895, as amended by Chapter 134, Private Laws of 1899, and by Chapter 99, Private Laws of 1901, is amended by adding the following new sections:

"Section 3.1. **Form of Government.** The Town 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 3.2. **Town Manager.** The Council shall appoint a Town Manager in accordance with G.S. 160A-147.

"Section 3.3. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Manager may direct.

"Section 3.4. **Finance Director.** The Town 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 3.5. **Tax Collector.** The Town Manager shall appoint a Tax Collector to collect all taxes owed to the Town, subject to general law, this Charter, and Town ordinances.

"Section 3.6. **Town Attorney.** The Council 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 Council may direct.

"Section 3.7. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may

organize the Town government as deemed appropriate, subject to the requirements of law."

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

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1670

Session Law 2004-35

AN ACT TO INCREASE THE FORCE ACCOUNT LIMIT FOR THE CITY OF NEWTON AND CATAWBA COUNTY AS TO A PARK.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-135 reads as rewritten:

"§ 143-135. Limitation of application of Article.

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty five thousand dollars (\$125,000)~~ or the total cost of labor on the project does not exceed ~~fifty thousand dollars (\$50,000)~~. eight hundred sixty thousand dollars (\$860,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 2. This act applies only to the construction of a park on City of Newton property on North Carolina Highway 10 West.

SECTION 3. This act applies only to the City of Newton and Catawba County.

SECTION 4. This act is effective when it becomes law and expires December 30, 2006.

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law on the date it was ratified.

H.B. 1543

Session Law 2004-36

AN ACT TO INCREASE THE MEMBERSHIP OF THE CITY OF ASHEVILLE BOARD OF ALCOHOLIC CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Chapter 1083 of the 1947 Session Laws reads as rewritten:

"Sec. 4. If the operation of a city liquor control store is authorized under the provisions of this Act, the Mayor and City Council of the City of Asheville shall immediately create a city board of alcoholic control to be composed of a chairman and ~~two~~ four other members who shall be well-known for their character, ability, and business acumen. Said board shall be known and designated as "The City of Asheville Board of Alcoholic Control". The chairman of said board shall be designated by the mayor and governing body of the city and shall serve ~~for his~~ the first term for a period of three years, and ~~one member~~ two members shall serve for ~~his~~ their first term a period of two years, and the other ~~member~~ members shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the board shall be named or filled by the mayor and the governing body of the city."

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 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. 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. Section 2 of this act applies to the City of Asheville only.

SECTION 4. The Mayor and 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. Members currently appointed to the board shall continue to serve their term until it expires.

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

In the General Assembly read three times and ratified this the 29th day of June, 2004.

Became law on the date it was ratified.

S.B. 1127

Session Law 2004-37

AN ACT TO INCORPORATE THE TOWN OF WALLBURG.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Wallburg is enacted to read:

"CHARTER OF THE TOWN OF WALLBURG.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Wallburg are a body corporate and politic under the name 'Town of Wallburg'. The Town of Wallburg 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. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Wallburg are as follows:
Beginning at a point in the centerline intersection of Secondary Road #1730 (Wallburg/Union Cross Road) and running thence in an easterly direction following the Forsyth County/Davidson County line to the northwest corner of PIN# 6862-02-69-9020; thence along the western boundary of PIN# 6862-02-69-9020; thence in a southerly direction along the western boundary of PIN # 6862-02-78-0144; thence in a southerly direction along the western boundary of PIN # 6862-02-77-0331 and easterly direction along the southern boundary of PIN # 6862-02-77-0331; thence in a northerly direction along the western boundary of PIN # 6862-02-86-4846 and easterly along the northern boundary of the following three parcels, (1) PIN # 6862-02-86-4846, (2) PIN # 6862-02-86-7823, (3) PIN # 6862-02-96-3711; thence in a southerly direction along the eastern boundary of the following two parcels, (1) PIN # 6862-02-96-3711, (2) PIN # 6862-02-96-2045 to the northern boundary of PIN # 6862-02-95-4143; thence in a westerly, southerly, and easterly direction along PIN # 6862-02-95-4143 to the centerline intersection of Secondary Road # 1733 (Georgetown Road); thence along the eastern and southern boundary of PIN # 6862-04-84-9252 to the northeast corner of PIN # 6862-04-74-2013 and in a southerly direction along the eastern boundary and westerly along the southern boundary of PIN # 6862-04-74-2013 to the northeast corner of PIN # 6862-04-73-8146; thence in a southerly direction along the PIN # 6862-04-73-8146 to the northern boundary of PIN # 6862-04-72-8400; thence in an easterly direction along the northern boundary and in a southerly direction along the eastern boundary of PIN # 6862-04-72-8400 and in a southerly direction along the eastern boundary of the following 4 parcels, (1) PIN # 6862-04-92-2009, (2) PIN # 6862-04-81-6713, (3) PIN # 6862-04-81-3468, (4) PIN # 6862-04-81-4199 to the southwest corner of PIN # 6862-04-91-6241; thence in an easterly direction along the southern boundary and in a northerly direction along the eastern boundary of PIN # 6862-04-91-6241 to the northwest corner of PIN # 6872-03-00-2722; thence in an easterly and southerly direction along the northern and eastern boundary of PIN # 6872-03-00-2722 to the centerline intersection of Secondary Road # 1741 (Wallburg-High Point Road) and running thence in an easterly direction, along the centerline of Wallburg-High Point Road to the northeast corner of PIN # 6871-01-19-5161; thence in a southerly direction along the eastern boundary and westerly along the southern boundary of PIN # 6871-01-19-5161 and westerly along the southern boundary of PIN # 6871-01-18-0987 to the boundary of PIN # 6871-01-08-8339; thence in a southerly direction along the eastern boundary of PIN # 6871-01-08-8339 and southerly along the eastern boundary and westerly along the southern boundary of PIN # 6871-01-08-6182; thence in a westerly direction along the southern boundary of the following 4 parcels, (1) PIN # 6871-01-08-2334, (2) PIN # 6861-02-98-9167, (3) PIN # 6861-02-98-8359, (4) PIN # 6861-02-98-7437 and northerly along the western boundary of PIN # 6861-02-98-6556 and continuing in a northerly direction along the eastern boundary of PIN # 6861-02-88-7858 to the centerline intersection of Secondary Road # 1741 (Wallburg-High Point Road); thence continuing on from the centerline intersection of Wallburg-High Point Road in a northerly direction along the eastern boundary of PIN # 6862-04-80-2633 to the southern boundary of PIN # 6862-04-81-4199; thence in a westerly direction along the northern boundary of PIN # 6862-04-80-2633 to the centerline intersection of Secondary Road #1741 (Wallburg-High Point Road) and thence from the center line intersection of Wallburg-High Point Road in a westerly and southerly direction along

the northern and western boundary of PIN # 6862-04-80-2633 and continuing westerly to the northwest corner of PIN # 6861-02-69-2593; thence continuing westerly, southerly and easterly along the boundary of PIN # 6861-02-69-2593 to the southwest corner of PIN # 6862-04-80-2633; thence in an easterly direction along the southern boundary of PIN # 6862-04-80-2633 and PIN # 6861-02-89-1437 to the boundary of PIN # 6861-02-88-7858 and continuing in a southerly direction along the western boundary of the following 3 parcels, (1) PIN # 6861-02-88-7858, (2) PIN # 6861-02-87-2956, (3) PIN # 6861-02-87-2574 to the boundary of PIN # 6861-02-76-6889; thence in a easterly and southerly along the northern and eastern boundary of PIN # 6861-02-76-6889 and continuing southerly along the eastern boundary of the following 4 parcels, (1) PIN # 6861-02-86-4378, (2) PIN # 6861-02-86-4264, (3) PIN # 6861-02-86-5006, (4) PIN # 6861-02-85-2672 and westerly along the southern boundary and northerly on the western boundary of PIN # 6861-02-85-2672 to the southeast corner of PIN # 6861-02-75-8237; thence in a westerly direction along the southern boundary of the following 3 parcels, (1) PIN # 6861-02-75-8237, (2) PIN # 6861-02-75-126, (3) PIN # 6861-02-65-3377 and continuing in a northerly direction along the western boundary of PIN # 6861-02-65-3377 to the centerline intersection of Secondary Road # 1749 (Stoney Ridge Road); thence in a westerly direction along the centerline intersection of Stoney Ridge Road to the northeast corner of PIN # 6861-01-45-9232; thence in a southerly and westerly direction along the eastern and southern boundary of PIN # 6861-01-45-9232; thence in a southerly direction along the eastern boundary the following 2 parcels, (1) PIN # 6861-03-44-6877, (2) PIN # 6861-03-44-7508 to the centerline intersection of Secondary Road # 2995 (Johnson Road); thence continuing in a westerly direction to the centerline intersection of North NC Hwy 109; thence southerly direction on North NC Hwy 109 to the northeast corner of PIN # 6861-03-43-2478; thence westerly and southerly direction along the northern and western boundary of PIN # 6861-03-43-2478 and southerly along the western boundary of PIN # 6861-03-42-3828; thence southerly direction along the eastern boundary of the following 10 parcels, (1) PIN # 6861-03-32-7590, (2) PIN # 6861-03-32-8365, (3) PIN # 6861-03-32-8292, (4) PIN # 6861-03-32-9132, (5) PIN # 6861-03-31-9977, (6) PIN # 6861-03-41-0802, (7) PIN # 6861-03-41-0720, (8) PIN # 6861-03-41-0427, (9) PIN # 6861-03-41-0185, (10) PIN # 6861-03-40-1971 to the centerline intersection of Secondary Road #2964 (Oak Street); thence in a southerly direction to southeast corner of PIN # 6861-03-40-0675; thence in a westerly direction along the southern boundary of PIN # 6861-03-40-0675; thence in a westerly and then northerly direction along the boundary of PIN # 6861-03-30-9773 and thence in a northerly direction along the boundary of PIN # 6861-03-30-9849 to the centerline intersection of Secondary Road # 1997 (Eden Park Drive); continuing in a westerly direction along the southern boundary of PIN # 6861-03-30-6879 to the southeast corner of PIN # 6861-03-21-8461; thence in a northerly and westerly direction along the eastern and northern boundary of PIN # 6861-03-21-8461 continuing in a westerly and northerly direction along the boundary of PIN # 6861-03-22-2156; thence continuing in a northerly direction along the western boundary of the following 7 parcels, (1) PIN # 6861-03-22-1365, (2) PIN # 6861-03-22-1418, (3) PIN # 6861-03-22-0584, (4) PIN # 6861-03-22-0584, (5) PIN # 6861-03-22-0657, (6) PIN # 6861-03-22-0716, (7) PIN # 6861-03-12-9848 to the centerline intersection of Secondary Road # 1751 (Shady Grove Church Road) and thence continuing in a westerly direction on Shady Grove Church Road to the southeast corner of PIN # 6851-04-93-7638; thence in a northerly direction along the eastern boundary of PIN #

6851-04-93-7638; thence in a westerly direction along the southwestern of PIN # 6851-04-94-6468 to the southeast corner of PIN # 6851-02-95-0214; thence in a northerly and easterly direction along the eastern boundary of PIN # 6851-02-95-0214; thence in a southeasterly direction along the southwestern boundary of PIN # 6861-03-24-0560 to the centerline intersection of Secondary Road # 1751 (Shady Grove Church Road); thence continuing in an easterly direction on Shady Grove Church Road to the southwestern corner of PIN # 6861-03-34-3400; thence in a northerly direction along the western boundary of PIN # 6861-03-34-3400; thence in a westerly and northerly direction along the western boundary of PIN # 6861-03-33-1685 to the boundary of PIN # 6861-01-35-4668; thence in an easterly, northerly and westerly direction along the southern, eastern and northern boundary of PIN # 6861-01-35-4668 to the southwestern corner of PIN # 6861-01-36-8115; thence in a northerly direction along the western boundary of the following 3 parcels, (1) PIN # 6861-01-36-8115, (2) PIN # 6861-01-36-9371, (3) PIN # 6861-01-36-9523; thence in an easterly direction along the northern boundary of PIN # 6861-01-36-9523 to the southwestern corner of PIN # 6861-01-46-0617; thence in a northerly and easterly direction along the western and northern boundary of PIN # 6861-01-46-0617 to the centerline intersection of North NC Hwy 109; thence continuing in a northerly direction on North NC Hwy 109 to the southeast corner of PIN # 6861-01-39-6482; thence in a northerly direction along the eastern boundary of PIN # 6861-01-39-6482; thence in a northerly, westerly and easterly direction along the eastern boundary of PIN # 6862-03-32-0247; thence in a northwesterly direction along the northern boundary of PIN # 6862-03-32-0247 to the southeast corner boundary of PIN # 6862-03-34-4226; thence continuing in a westerly and southerly direction along the northern and western boundary of PIN # 6862-03-34-4226; thence in a southerly and westerly direction along the northern boundary of PIN # 6862-03-32-0247 to the centerline intersection of Secondary Road #1773 (Motsinger Road); thence continuing in a southerly direction on Motsinger Road to the southwest corner of PIN # 6862-03-12-2667; thence continuing in a northerly, westerly, southerly and easterly direction along the eastern, northern and western boundary of PIN # 6852-04-72-6540 to the centerline intersection of Secondary Road #1700 (Friendship-Ledford Road); thence continuing in a southerly direction on Friendship-Ledford Road to the northeast corner of PIN # 6851-01-28-4557; thence in a westerly and northerly direction along the northern boundary of PIN # 6851-01-28-4557 to the eastern boundary of PIN # 6852-03-11-0324; thence in a northerly direction along the eastern boundary of PIN # 6852-03-11-0324 to centerline intersection of Secondary Road #1711 (Gumtree Road); thence continuing across Gumtree Road to the southwest corner of PIN # 6852-03-23-1651; thence in a northerly and northeasterly direction along the western and northern boundary of PIN # 6852-03-23-1651 to the centerline intersection of Secondary Road #1700 (Friendship-Ledford Road); thence continuing across Friendship-Ledford Road in a northeasterly direction along the southeastern boundary of the following 3 parcels, (1) PIN # 6852-03-24-2274, (2) PIN # 6852-03-24-6800, (3) PIN # 6852-03-24-8961 to the southeast corner boundary of PIN # 6852-01-25-8744; thence continuing in a northerly and easterly direction along the eastern boundary of PIN # 6852-01-25-8744 to the centerline intersection of Secondary Road #1711 (Gumtree Road); thence in a northeasterly direction on Gumtree Road to the northeast corner of PIN # 6852-01-16-7536; thence in a westerly direction along the northern boundary of PIN # 6852-01-16-7536 to the northeast corner of PIN # 6852-01-06-2193; thence in a westerly and southern direction along the northern and western boundary of PIN # 6852-01-06-2193 to the centerline intersection of Secondary

Road #1700 (Friendship-Ledford Road); thence continuing north on Friendship-Ledford Road to southeast corner boundary of PIN # 6842-02-97-6174; thence in westerly direction along the southern boundary of PIN # 6842-02-97-6174; thence in a northerly direction along the western boundary of the following 6 parcels, (1) PIN # 6842-02-97-6217, (2) PIN # 6842-02-97-6400, (3) PIN # 6842-02-97-5578, (4) PIN # 6842-02-97-5745, (5) PIN # 6842-02-97-5817, (6) PIN # 6842-02-98-8101 to the centerline intersection of Secondary Road #1708 (Mt. Vernon Church Road); thence in a northeasterly direction along Mt. Vernon Church Road to the southwest corner boundary of PIN # 6842-02-98-8101; thence in a northerly direction along the western boundary of PIN # 6842-02-98-8101; thence in a northerly and easterly direction along the western and northern boundary of PIN # 6842-02-98-7532; thence in a easterly and northerly direction along the southern and eastern boundary of PIN # 6852-01-09-2040 to the southeast corner of the southern boundary of PIN # 6852-01-09-9621; thence continuing in an easterly and northerly direction along the southern and eastern boundary of PIN # 6852-01-09-9621 to centerline intersection of Secondary Road #1709 (Rex Road); thence continuing in a northerly direction on Rex Road to the Forsyth/Davidson County line; thence following the Forsyth/Davidson County line in an easterly direction to the centerline intersection of Secondary Road #1730 (Wallburg/Union Cross Road) which is the beginning.

All references to the PIN # herein are references to Davidson county tax map system as of March 17, 2003. A copy shall be maintained in the records of the town of Wallburg.

"Section 2.2. **Annexation.** (a) The Town of Wallburg shall not extend its boundaries into Forsyth County by annexation pursuant to Article 4A of Chapter 160A of the General Statutes.

(b) The Town of Wallburg shall not extend its boundaries in Davidson County by annexation east of the line shown on the map dated March 16, 2004, entitled "Proposed Town of Wallburg," as prepared by the City of High Point Department of Planning and Development. That line begins at the place where Abbots Creek Church Road (S.R. 1734) intersects the Forsyth/Davidson County line; then south along Abbots Creek Church Road to its intersection with Moore Road (S.R. 1745); then west and south along Moore Road to its intersection with Mock Road (S.R. 1744); then south along Mock Road to its intersection with Old Greensboro Road (S.R. 1756); then west and south along Old Greensboro Road to N.C. Highway 109.

(c) G.S. 160A-58.1(b)(2) does not apply to the Town of Kernersville as it relates to the Town of Wallburg.

(d) G.S. 160A-58.1(b)(2) does not apply to the City of Winston-Salem as it relates to the Town of Wallburg.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Wallburg is the Mayor and Town Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2005 provided for by Section 4.1 of this Charter, Jack Craven is hereby appointed Mayor and Ronnie Bailey, Zane Hedgecock, Sue Martin, Daphne Rogers, and Mark Swaim are appointed Council Members of the Town of Wallburg, 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 2005.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2005, 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 2007, and quadrennially thereafter, three members shall be elected to four-year terms. In 2009, 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 Town shall elect the Mayor. In 2005, and quadrennially thereafter, the Mayor shall be elected for a term of four years. The Mayor shall be the official head of Town government and shall preside at all meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town 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. **Town to Operate Under Mayor-Council Plan.** 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 5.2. **Town Attorney.** The Council 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 as required by law or as directed by the Town Council. The Town Attorney shall serve at the pleasure of the Town Council.

"Section 5.3. **Town Clerk.** The Council shall appoint a Town Clerk who shall perform duties as required by law or as directed by the Town Council. The Town Clerk shall serve at the pleasure of the 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 Town of Wallburg shall be subject to municipal taxes levied for the year beginning July 1, 2004, and for that purpose the Town shall obtain from Davidson County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2004.

"Section 6.2. **Budget.** The Town may adopt a budget ordinance for fiscal year 2004-2005 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 2004-2005, 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, 2004, 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 practical. No ad valorem taxes may be levied for the 2003-2004 fiscal year.

"Section 6.3. **Ad Valorem Taxes.** The Town Council shall not increase the ad valorem tax rate more than \$0.10/\$100.00 valuation above the ad valorem tax rate established on the date of incorporation of the Town of Wallburg without the vote or

consent of a majority of the qualified voters of the Town of Wallburg. The election on the question of increasing the ad valorem tax rate shall be conducted in accordance with G.S. 160A-209."

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

In the General Assembly read three times and ratified this the 29th day of June, 2004.

Became law on the date it was ratified.

H.B. 1363

Session Law 2004-38

AN ACT TO PROVIDE THAT THE LAWS RELATING TO MOTOR VEHICLES APPLY ON THE STREETS OWNED BY THE LAKE TOXAWAY PROPERTY OWNERS' ASSOCIATION IN TRANSYLVANIA COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. With the exception of any provisions prohibiting or regulating the operation of private golf carts, the provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles are applicable to the streets, roadways, and alleys on the properties owned by or under the control of the Lake Toxaway Property Owners' Association, Inc., or the members of the Lake Toxaway Property Owners' Association, Inc. For purposes of this act, streets, roadways, and alleys in the Lake Toxaway Community shall have the same meaning as highways and public vehicular areas pursuant to G.S. 20-4.01.

SECTION 2. This act is enforceable by any law enforcement officer acting within his territorial jurisdiction.

SECTION 3. This act shall not be construed as in any way interfering with the ownership and control of the streets, roadways, and alleys of the Lake Toxaway Property Owners' Association, Inc., or its members as is now vested by law in that association or its members. The speed limits within the Lake Toxaway Community shall be the same as those in effect at the time of ratification of this act. Any proposed change in the speed limit shall be submitted to and approved by the Board of Commissioners of Transylvania County. Pursuant to G.S. 20-141, the Transylvania County Board of Commissioners may authorize by ordinance higher or lower speeds.

SECTION 4. This act applies to Transylvania County only.

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

In the General Assembly read three times and ratified this the 29th day of June, 2004.

Became law on the date it was ratified.

H.B. 224

Session Law 2004-39

AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE CITY OF KANNAPOLIS, TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE TOWN OF MOUNT PLEASANT, AND TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE TOWN OF MIDLAND.

The General Assembly of North Carolina enacts:

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

Lying and being in Number 3 Township, Cabarrus County, North Carolina on the West side of Shiloh Church Road adjoining the property of Roger D. Hudson, now or formerly (Book 367, page 49) and others and being more particularly described as follows:

BEGINNING at an existing 3/4" iron in the right-of-way of Shiloh Church Road, a corner of Hudson as noted above, said pin being S. 18-34-49 W. 1071.93 feet from an existing railroad spike in the intersection of Shiloh Church Road and Placid Road; thence with the right-of-way of Shiloh Church Road, S. 16-45-12 W. 544.96 feet to an existing iron pin (#5 rebar) on the north side of a 60 foot private right-of-way; thence with the north side of the 60 foot private right-of-way the following five (5) lines: 1) N. 84-03-27 W. 188.49 feet to a set iron pin (passing a set iron pin at 17.60 feet); 2) a curve bearing to the left S. 79-23-51 W. 102.95 feet with a radius of 180.00 feet and an arc length of 104.40 feet to a set iron pin; 3) S. 62-42-52 W. 210.68 feet to a set iron pin; 4) a curve bearing to the left S. 78-03-08 W. 63.48 feet with a radius of 120.00 feet and an arc length of 64.25 feet to a set iron pin; and 5) N. 86-39-49 W. 86.22 feet to an existing iron pin (#4 rebar), a corner of Mickey H. Kinley, now or formerly (Book 581, page 613 and Book 507, page 349); thence the following three lines with Kinley: 1) N. 11-04-59 W. 83.11 feet to an existing iron pin (#4 rebar); 2) S. 68-47-38 W. 103.69 feet to an existing iron pin (#4 rebar); and 3) S. 11-05-34 E. 38.59 feet to an existing iron pin on the north side of the 60 foot private right-of-way; thence continuing with the private right-of-way the following two lines: 1) N. 86-29-05 W. 60.02 feet to a set iron pin; and 2) S. 03-38-18 E. 148.85 feet to an existing 5/8" iron rod, a corner of Clifford C. Roten, Sr., now or formerly (Book 2413, page 246); thence the following three lines with Roten as follows: 1) N. 89-14-57 W. 10.00 feet to an existing iron pin; 2) N. 71-37-21 W. 278.66 feet to an existing iron pin (#4 rebar); and 3) S. 04-17-36 E. 185.00 feet to a set iron pin in the line of William D. Brumley, now or formerly (Book 616, page 94); thence the following five (5) lines with Brumley: 1) N. 76-27-30 W. 381.72 feet to a post; 2) N. 61-29-48 W. 234.44 feet to a post; 3) N. 39-38-36 W. 135.40 feet to a post; 4) N. 49-06-00 W. 319.10 feet to an existing 1/2" iron rod in stone pile; and 5) S. 00-55-58 W. 926.85 feet (passing an existing 1" iron rod at 862.10 feet) to a point, a corner of Brumley and Helms, as noted above, said point lying in the Rocky River; thence with the line of Helms and the Rocky River, the following six (6) lines: 1) N. 75-17-28 W. 252.10 feet to a point; 2) S. 73-31-21 W. 368.10 feet to a point; 3) S. 65-39-50 W. 523.05 feet to a point; 4) N. 75-08-12 W. 319.81 feet to a point; 5) N. 74-08-13 W. 425.60 feet to a point; and 6) N. 79-59-52 W. 337.20 feet to a point in the line of Rocky River, said point being on the border of Cabarrus County and Mecklenburg County, said point also being a corner of River Run Limited Partnership, now or formerly (Book 6245, page 680 Mecklenburg County Registry); thence twenty eight (28) lines with the line of River Run Limited Partnership, Howard and Associates, and Rocky River as follows: 1) N. 18-47-28 W. 250.03 feet to a point; 2) N. 02-43-26 W. 312.05 feet to a point; 3) N. 10-28-53 E. 113.73 feet to a point; 4) N. 03-07-28 E. 92.98 feet to a point; 5) N. 00-25-03 E. 87.16 feet to a point; 6) N. 12-54-32 W. 72.35 feet to a point; 7) N. 16-54-27 W. 63.53 feet to a point; 8) N. 03-32-17 E. 52.59 feet to a point; 9) N. 19-31-24 E. 89.74 feet to a point; 10) N. 13-42-55 E. 84.75 feet to a point; 11) N. 25-13-19 W. 82.75 feet to a point; 12) N. 21-21-58 W. 94.32 feet to a point; 13) N. 21-55-45 E. 81.08 feet to a point; 14) N. 15-13-07 W. 75.32 feet to a point; 15) N. 03-59-20 W. 94.21 feet; and 16) N. 07-51-27 E. 83.50 feet to a point; 17) N. 02-57-31 W. 69.26 feet to a point; 18) N. 10-07-25 W. 78.45 feet to a point; 19) N. 11-31-18 E. 45.53 feet to a point; 20) N. 01-50-53 E. 133.23 feet to a point, a corner of Christopher

Davis, now or formerly (Book 8035, page 100 Mecklenburg County Registry); 21) N. 00-56-24 E. 28.66 feet to a point; 22) N. 25-32-24 W. 151.20 feet to a point; 23) N. 24-18-31 W. 212.55 feet to a point; 24) N. 51-06-44 W. 70.12 feet to a point; 25) N. 32-38-00 W. 159.45 feet to a point; 26) N. 01-57-51 W. 35.47 feet to a point; 27) N. 59-40-44 W. 69.47 feet to a point and 28) N. 20-02-08 W. 261.69 feet to a point; thence leaving Rocky River and entering Mecklenburg County with the line of Davis, S. 78-01-45 W. 1,288.86 feet to an existing iron pin on the east side of Shearer Road; thence with the right-of-way of Shearer Road the following two lines: 1) N. 04-55-47 E. 15.68 feet to an existing iron pin; and 2) N. 04-56-41 E. 31.39 feet to a set iron pin a corner of Hubert M. Howard, now or formerly (Book 4567, page 166 Mecklenburg County Registry); thence with the line of Howard, N. 78-02-01 E. 1287.33 feet to a point in Rocky River on the County line, (passing an existing 1" iron pin at 1235.17 feet); thence continuing with the line of Howard and entering into Cabarrus County, N. 03-10-44 E. 161.14 feet (passing a set iron pin at 61.14 feet) to an existing 1" iron pipe, a corner of Sadie Graeber Barbee (Book 715, page 174); thence the following three lines with Barbee: 1) S. 64-51-03 E. 1,182.56 feet to an existing #4 rebar in stone pile; 2) N. 40-50-58 E. 2,007.16 feet to an existing iron pin; and 3) N. 27-40-35 W. 515.79 feet to an existing 2" pipe in the line of Pricilla H. Melchor, now or formerly (Book 2039, page 334); thence with the line of Melchor, N. 89-53-58 E. 738.13 feet to an existing 2" pipe in the line of Elizabeth B. Mabry, now or formerly (Book 303, page 60); thence the following two lines with Mabry: 1) S. 20-33-02 E. 430.36 feet to an existing iron pin; and 2) N. 87-47-29 E. 270.03 feet to a set iron pin a corner of Polaris Properties, LLC, now or formerly (Book 1729, page 17); thence the following three lines with Polaris: 1) S. 01-24-52 E. 177.66 feet to a set iron pin at a found nail; 2) S. 53-53-31 W. 87.84 feet to a set iron pin at a found nail; and 3) S. 01-24-52 E. 176.63 feet to a set iron pin in the line of Brett L. Fowler, now or formerly (Book 2631, page 108); thence with the line of Fowler the following six (6) lines: 1) S. 89-29-18 W. 94.09 feet to an existing iron pin; 2) S. 46-52-00 E. 123.80 feet to an existing iron pin; 3) S. 09-18-57 E. 48.00 feet to an existing iron pin; 4) S. 13-49-04 W. 155.55 feet to an existing iron pin; 5) S. 28-04-41 W. 195.49 feet to an existing iron pin; and 6) S. 08-29-26 E. 467.21 feet to a set iron pin in the line of Brett L. Fowler, now or formerly (Book 1621, page 251); thence with the line of Fowler the following three lines: 1) S. 79-17-23 W. 200.00 feet to a set iron pin at an existing axle; 2) S. 23-59-21 E. 657.91 feet to an existing 5/8" iron rod; and 3) N. 78-59-50 E. 319.12 feet to an existing 1" iron rod, a corner of James E. Davidson, III, now or formerly (Book 1836, page 156); thence with the line Davidson and John A. Davidson (Book 443, page 712) S. 00-13-04 E. 466.37 feet to an existing iron pin in the line of John L. Guthrie, now or formerly (Book 503, page 134); thence the following five (5) lines with Guthrie: 1) N. 77-01-52 W. 30.75 feet to an existing iron pin; 2) S. 00-13-08 E. 240.71 feet to an existing 1/2" iron rod; 3) S. 76-21-00 E. 597.71 feet to an existing iron pin (passing an existing 1/2" iron rod at 470.52 feet); 4) N. 36-22-40 E. 32.36 feet to an existing iron pin; and 5) S. 76-23-17 E. 41.02 feet to an existing 1/2" iron rod, a corner of Frank R. Freeze, now or formerly (Book 384, page 811 and Book 396, page 325); thence with the line of Freeze and Hudson as noted above; S. 76-23-17 E. 617.98 feet to the point of BEGINNING, containing 258.106 acres more or less, as platted and surveyed by Marion L. Sandlin, Jr., PLS December 22, 1999.

SECTION 2. The corporate limits of the City of Kannapolis are extended to include the following described area:

BEGINNING at the southeastern corner of said property line along the Proposed Poplar Tent Road; Running thence with the southwesterly property line S 76-01-13W for a distance of 401.28 feet; Thence with the northwesterly property line N 20-13-42W for a distance of 334.17 feet; Thence along the northeasterly property line N 69-46-18 E for a distance of 331.20 feet; Thence along the proposed right-of-way of Poplar Tent Road in a southeasterly direction of S 32-07-08 E for a distance of 240.79 feet; Thence along the same right-of-way a radius of 885.00 feet in a southeasterly direction for a length of 143.52 feet at a bearing of S 27-28-23 E at a distance of 143.36 feet back to the point of beginning.

SECTION 3. The corporate limits of the City of Kannapolis are extended to include the following described area:

Commencing at North Carolina control monument "coline", having NAD 83 state plane grid coordinates of X = 1,474,626.92 feet and Y = 620,132.32 feet; thence a tie of South 81-21-29 West a ground distance of 296.95 feet to a p-k nail set in the centerline of State Highway 73, said p-k nail being the POINT OF BEGINNING thence two (2) new lines with the L.T. Lopper property (Deed Book 489, Page 596, Cabarrus County Registry); (1.) North 20-13-42 West, a distance of 580.64 feet to an iron pin set; (2.) North 76-01-13 East, a distance of 618.87 feet to an existing 1-1/2" iron pipe, said pipe being the Southwest corner of Ronald Gold Overcash property (Deed Book 1741, Page 215, Cabarrus County Registry); thence with said Overcash property North 76-01-13 East, a distance of 659.87 feet to an existing 1-1/2" iron pipe; thence South 00-11-39 West, a distance of 660.00 feet to an existing #4 rebar; thence South 75-58'33" West, a distance of 667.96 feet to a p-k nail set in the centerline of State Highway 73; thence with said centerline South 85-19-29 West, a distance of 391.12 feet to the beginning, containing 16.816 Acres more or less and being a portion of Deed Book 489, Page 596 recorded in the Cabarrus County Registry.

SECTION 4. The corporate limits of the Town of Mount Pleasant are extended to include the following described territory:

That certain tract or parcel of land situated, lying and being in the Township # 9, Cabarrus County, and being more particularly described as follows:

BEGINNING at a point in the center of Hwy 200 said point being a southeast corner of St. Marks Evangelical Church as recorded in Deed Book 0044, Page 509 of the Cabarrus County Public Registry and runs thence with the line of St. Marks Evangelical Church the following two (2) courses and distances: (1) North 35-57-43 East 964.23 feet to a point; (2) North 22-15-06 West 1773.00 to a point being a southeast corner of Wachovia National Bank as described in Deed Book 4953, Page 200 of said Registry, thence with the line of Wachovia National Bank the following seven (7) courses and distances: (1) North 73-19-07 East 304.71 feet to a point; (2) North 46-43-24 East 1430.13 feet to a point; (3) North 42-29-30 West 729.10 feet to a point; (4) South 27-00-00 West 41.92 feet to a point; (5) North 45-43-00 West 2091.97 feet to a point; (6) South 41-44-00 West 2532.75 feet to a point; (7) South 37-30-00 West 132.00 feet to a point being a southeast corner of James Cook property as described in Deed Book 2211, Page 40 of said Registry, thence with the line of James Cook the following six (6) courses and distances: (1) North 43-00-00 West 1258.13 feet to a point; (2) North 36-57-10 East 2683.61 feet to a point; (3) North 73-00-00 East 1023.00 feet to a point; (4) North 77-00-00 East 1122.00 feet to a point; (5) South 65-00-00 East 189.75 feet to a point; (6) North 02-00-00 East 182.46 feet to a point being the southwest corner of Clyde Cline property (no deed reference), thence with the line of Clyde Cline property the following three courses and distances: (1) South 55-40-26 East 317.60 feet to a

point; (2) South 72-38-26 East 956.44 feet to a point; (3) North 01-08-32 East 930.06 feet to a point, thence with another line of Clyde Cline property and continuing with the line of Irvin Johnston (no deed reference) and continuing with the line of lots 32, 41-43, 45-58 Lake Shores Estates, Map 3 as recorded in Map Book 19, Page 24 the following three courses and distances: (1) North 85-08-32 East 1080.75 feet to a point; (2) South 40-07-00 East 1203.46 feet to a point; (3) North 30-08-32 East 1493.25 feet to a point being the southwest corner of Tony Furr property as described in Deed Book 4533, Page 49 of said Registry. Thence with the line of Tony Furr and continuing with the line of lots 26, 25 Lake Shore Estates, Map 2 as recorded in Map Book 19, Page 7 of said Registry South 55-51-28 East 660.00 feet to a point being the northwest corner of lot 31 Lake Shores Estates, Section 1 as recorded in Map Book 18, Page 69 of said Registry. Thence with the line of Lot 31 and continuing with the line of lots 32-49A and continuing with the line of Doris Reinhardt property as described in Deed Book 3093, Page 221 of said Registry the following two (2) courses and distances: (1) South 30-08-32 West 1765.50 feet to a point; (2) South 01-51-28 East 321.75 feet to a point being a northeast corner of Betty Blume property as described in Deed Book 2518, Page 121 of said Registry, thence with the line of Betty Blume and continuing with the line of John Kluttz (no deed reference) the following four (4) courses and distances: (1) South 88-08-32 West 2310.00 feet to a point; (2) North 87-02-47 West 164.82 feet to a point; (3) South 10-06-10 East 510.17 feet to a point; (4) South 85-30-00 East 1303.50 to a point being a southwest corner of Betty Blume property as described in Deed Book 2518, Page 121 of said Registry, thence with the line of Betty Blume property South 02-30-00 West 693.00 feet to a point being a northwest corner of Billy Krimminger property as described in Deed Book 2890, Page 350 of said Registry, thence with the line of Billy Krimminger property the following nine courses and distances: (1) South 22-48-15 West 757.37 feet to a point; (2) South 24-45-57 East 301.46 feet to a point; (3) South 43-23-04 East 350.70 feet to a point; (4) South 54-57-49 202.33 feet to a point; (5) South 32-37-06 East 200.47 feet to a point; (6) South 26-49-29 East 183.97 feet to a point; (7) South 34-06-40 East 354.45 feet to a point; (8) South 48-44-12 East 898.52 feet to a point; (9) South 66-40-56 East 451.34 feet to a point being a northeast corner of Bobby Krimminger property as described in Deed Book 2891, Page 01 of said Registry, thence with the line of Bobby Krimminger property the following two courses and distances: (1) South 52-42-39 West 939.55 feet to a point; (2) South 24-11-09 East 526.65 feet to a point being a northeast corner of Frank Widenhouse as described in Deed Book 778, Page 287 of said Registry, thence with the line of Frank Widenhouse property the following three (3) courses and distances: (1) South 48-03-51 West 202.62 feet to a point; (2) South 23-33-51 West 585.75 feet to a point; (3) South 48-26-09 East 218.63 feet to a point in the right-of-way of Mt. Pleasant Road, thence with the center of Mt. Pleasant Road the following two (2) courses and distances: (1) South 36-03-51 West 1262.25 feet to a point; (2) South 23-33-51 West 330.00 feet to a point being the northeast corner of Mary Wensil property as described in Deed Book 483, Page 548 of said Registry, thence with the line of Mary Wensil North 65-56-09 West 453.75 feet to a point being a northeast corner of Ben Layton property as described in Deed Book 0590, Page 40 of said Registry, thence with the line of Ben Layton property and continuing with the line of Darrell Page property as described in Deed Book 0722, Page 85 of said Registry and Dennis Layton property as described in Deed Book 0773, Page 115 of said Registry the following three (3) courses and distances: (1) North 71-11-24 West 343.94 feet to a point; (2) North 69-30-06 West 492.97 feet to a point; (3) South 49-56-30 West 288.50 feet to a point being on line of Opal Stanton property as

described in Deed Book 2840, Page 64 of said Registry, thence with the line of Opal Stanton property the following two (2) courses and distances: (1) North 40-03-30 West 200.00 feet to a point; (2) South 49-56-30 West 230.00 feet to a point in NC Hwy 200; thence with the center of NC Hwy 200 the following two courses and distances: (1) North 42-41-30 West 696.10 feet to a point; (2) North 52-51-01 West 135.00 feet to the point or place of BEGINNING: containing 29,044,717 square feet or 666.7750 acres more or less as shown on an annexation map by James Mauney & Associates, P.A. dated May 3, 2004, and bearing file # F066.

Less and Excepting that parcel LYING and being in Township # 9, Cabarrus County, retained by James Grady Cook and being more particularly described as follows:

BEGINNING at a point in the center of Hwy 200 said point being a southeast corner of St. Marks Evangelical Church as recorded in Deed Book 0044, Page 509 of the Cabarrus County Public Registry and runs thence with the line of St. Marks Evangelical Church the following two (2) courses and distances: (1) North 35-57-43 East 964.23 feet to a point; (2) North 22-15-06 West 1773.00 to a point being a southeast corner of Wachovia National Bank as described in Deed Book 4953, Page 200 of said Registry, thence with the line of Wachovia National Bank the following two (2) courses and distances: (1) North 73-19-07 East 304.71 feet to a point; (2) North 46-43-24 East 110 feet to a new corner, thence with a new line the following three (3) courses and distances: (1) South 27-55-04 East 1341.49 feet to a point; (2) South 15-09-08 West 451.92 feet to a point; (3) South 36-36-29 West 1200.00 feet to a point in the center of Hwy 200, thence with the center of Hwy 200 North 52-51-01 West 60.00 feet to the point or place of BEGINNING containing 839,470 square feet or 19.2716 acres more or less as shown on an annexation map by James Mauney & Associates, P.A. dated May 3, 2004, and bearing file # F066.

SECTION 5. Notwithstanding the provisions of Article 19 of Chapter 160A of the General Statutes, the County of Cabarrus or any municipality therein may enforce, within its jurisdiction, any provision of the school adequacy review performed under the Cabarrus County Subdivision Regulations, including approval of a method to address any inadequacy that may be identified as part of that review.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law on the date it was ratified.

H.B. 1475

Session Law 2004-40

AN ACT TO ANNEX THE ALBEMARLE CORRECTIONAL INSTITUTION TO THE TOWN OF BADIN.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Badin are extended to include the following described territory, which shall be considered to be satellite corporate limits until the intervening territory has been annexed:

Lying and being in Harris Township, Stanly County, and more particularly described as follows:

Being all of that certain parcel or tract of land located on the south side of Airport Road (SR 1549), 31 hundredths of a mile west from the intersection with NC 740 Highway,

and composed of tracts of land previously owned by Julius F. Burluson Heirs, J. T. Russell & Sons, Inc. and Jack H. Tysinger, et al as referenced in Plat Book 17, Page 26 in the Stanly County Registry, and being more particularly described as follows:

BEGINNING at a new spike in the center line of the pavement of Airport Road, SR 1549 with a right of way of 60 feet, said new spike being N-84-01-04-W 2448.73 feet from NCGS monument "ROCKS", and thence with a new line through the lands of Jack Tysinger, et al (DB 346-476) and J. T. Russell & Sons, Inc. (DB 488-511) S-30-23-14-E 1253.66 feet to a new iron pipe in the line between the lands of J. T. Russell & Sons, Inc. and Julius F. Burluson Heirs (DB 192-13), said new iron pipe being S-60-53-07-W 63.82 feet from a new iron pipe, a corner of Julius F. Burluson Heirs and Pressley McPhail (DB 133-51); THENCE with a common line between J. T. Russell & Sons, Inc. on the right and Julius F. Burluson Heirs on the left S-60-53-07-W 938.92 feet to an existing stone; THENCE a new line through the land of Julius F. Burluson Heirs S-40-25-53 W 633.42 feet to an existing iron pipe abutting an existing stone; THENCE with a common line between the lands of Julius F. Burluson Heirs on the right, Kenneth R. Huneycutt on the left (DB 367-621 and DB 323-840) and Ray F. Flow on the left (DB 365-199) S-32-51-16 W passing an existing iron pipe at 287.39 feet, a tract corner of Kenneth R. Huneycutt, and passing another existing iron pipe at 1033.54 feet a corner of Kenneth R. Huneycutt and Ray Flow, and continuing for a total distance of 1201.67 feet to an existing stone; THENCE with a common line between Julius F. Burluson Heirs on the right and Richmond E. Smith on the left (DB 165-217) N-47-53-31-W crossing Little Mountain Creek twice 1781.35 feet to an existing square iron rod on the north side of Little Mountain Creek; THENCE with a common line between Julius F. Burluson Heirs on the right and Richmond E. Smith on the left N-55-30-15-W 313.51 feet to a new spike in the center line of the pavement of Airport Road, said new spike being S-55-30-15-E 101.76 feet from an existing iron pipe at the base of a red oak stump, the north corner of Richmond E. Smith's land; THENCE with the center line of the pavement of Airport Road 34 calls as follows: 1) With the land of Julius F. Burluson Heirs on the right N-30-37-02-E 193.30 feet to a point, 2) N-30-57-59-E 118.97 feet to a point, 3) N-31-38-39-E 116.57 feet to a point, 4) N-33-03-18-E 78.77 feet to a point, 5) N-37-51-41E 60.84 feet to a point, 6) N-47-39-0 I -E 60.77 feet to a point, 7) N-59-20-24-E 61.60 feet to a point, 8) N-67-58-41-E 61.32 feet to a point, 9) N-74-29-57-E 59.44 feet to a point, 10) N-80-05-16-E 76.08 feet to a point, 11) N-83-46-19-E 77.20 feet to a point, 12) N-86-31-29-E 80.63 feet to a point, 13) S-89-19-38-E 76.81 feet to a point, 14) S-85-07-40-E 80.34 feet to a point, 15) S-84-17-33-E 165.88 feet to a point, 16) S-85-44-34-E 74.42 feet to a point, 17) S-88-38-47-E 73.69 feet to a point, 18) N-86-35-58-E 75.98 feet to a point, 19) N-80-58-46-E 73.87 feet to a point, 20) N-74-59-41-E 73.94 feet to a point, 21) N-70-25-09-E 73.57 feet to a point, 22) N-66-02-28-E 75.06 feet to a point, 23) N-61-30-22-E 73.22 feet to an existing spike at the intersection with the extension from the left the south line of Hercules Drive, 24) N-58-16-16-E 66.06 feet to an existing spike at the intersection with the extension from the left the north line of Hercules Drive, 25) with the land of J. T. Russell & Sons, Inc. on the right N-55-55-02-E 106.15 feet to a point, 26) N-54-25-27-E 100.62 feet to a point, 27) N-53-42-56-E 100.67 feet to a point, 28) N-52-37-14-E 98.92 feet to a point, 29) N-51-36-38-E 98.84 feet to a point, 30) N-50-52-23-E 100.50 feet to a point, 31) N-50-38-52 E 100.10 feet to a point, 32) N-49-57-58-E 102.79 feet to a point, 33) N-49-49-04-E 141.75 feet to an existing spike, 34) with the land of Jack H. Tysinger, et al on the right N-49-44-28-E 505.36 feet to the point of Beginning and containing 100.00 acres (by coordinates) subject to the

right of way of Airport Road (SR 1549), meridian relative to North Carolina Grid North, ratio of precision is 1: 26,000 according to a survey map by Dent Hall Turner, RLS dated November 30, 1995 for the County of Stanly.

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

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law on the date it was ratified.

H.B. 1484

Session Law 2004-41

AN ACT TO CLARIFY THE SCHEDULE FOR ELECTION OF THE MERGED SCHOOL BOARD FOR CLEVELAND COUNTY, AS RECOMMENDED BY THE STATE BOARD OF ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. The Cleveland County Board of Education consists of nine members elected at large in nonpartisan, plurality elections.

SECTION 2. The composition, terms and method of electing the Board of Education is set by the Plan for the Merger of the Cleveland County, Kings Mountain District, and Shelby City Schools adopted by the Cleveland County Board of Commissioners on April 18, 2000, amended by the Board of Commissioners on May 2, 2000, and adopted by the State Board of Education on September 13, 2000. Although the merger of the three school units was scheduled to take effect on July 1, 2000, it was delayed by litigation and preclearance under Section 5 of the federal Voting Rights Act, and the merger did not occur until January 13, 2004.

SECTION 3. Of the nine members originally appointed to the Board of Education, two each were members of the former Cleveland County, Kings Mountain and Shelby school boards, and three were selected without regard to former board membership, as provided in the merger plan. The merger plan provided for successors to those initial appointed members to be elected in November 2001 and November 2003. In 2001 successors were to be elected for those three at-large members appointed without regard to membership on the previous school boards, and in 2003 successors were to be elected for the six members appointed from the previous school boards. All members elected in 2001 and 2003 were to serve four-year terms.

SECTION 4. Because of the postponement of the merger from 2000 to 2004, the elections scheduled for 2001 and 2003 were not held, and the merged board did not take office until January 2004. During that time, the previous boards for Cleveland County, Kings Mountain and Shelby continued to function and conducted elections.

SECTION 5. Having considered the merger plan and the rescheduling of the postponed elections, the State Board of Elections has recommended that the election originally scheduled for November 2001 be rescheduled for November 2005, and that the election originally scheduled for November 2003 be rescheduled for November 2007. Such a schedule is consistent with the intent of the merger plan and recognizes the four-year delay in the implementation of merger.

SECTION 6. Three members of the Cleveland County Board of Education shall be elected on Tuesday after the first Monday in November 2005, and every four years thereafter. The three members elected in November 2005 shall replace the three members of the board originally appointed at large without regard to

membership on the previous boards for the Cleveland County, Kings Mountain and Shelby school units.

SECTION 7. Six members of the Cleveland County Board of Education shall be elected on Tuesday after the first Monday in November 2007, and every four years thereafter. The six members elected in November 2007 shall replace the six members of the board, or their successors, originally appointed from the previous boards for the Cleveland County, Kings Mountain and Shelby school units.

SECTION 8. Pursuant to Sections 4.B.5. and 6.A.4. of the merger plan, an election also shall be held in November 2005 to elect a successor to any board member who has been appointed to fill a vacancy in one of the six seats designated for members of the former boards for the Cleveland County, Kings Mountain and Shelby school units. The election in November 2005 shall be to fill the remaining two years of the unexpired term for that seat.

SECTION 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law on the date it was ratified.

H.B. 1593

Session Law 2004-42

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE TOWN OF SWANSBORO.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Swansboro are extended to include the following described territory of River Reach subdivision:

Phase I, Map Book 21, Page 219, Onslow County Registry, April 19, 1983

Phase II-A, Map Book 22, Page 218, Onslow County Registry, February 12, 1985

Phase II-B, Map Book 24, Page 83, Onslow County Registry, October 28, 1986

Phase III-A, Map Book 23, Page 149, Onslow County Registry, February 19, 1986

Phase III-B, Map Book 24, Page 84, Onslow County Registry, October 28, 1986,
(Section I)

Phase III-B, Map Book 29, Page 70, Onslow County Registry, December 9, 1992,
(Section II).

SECTION 2. The areas annexed by this act shall be considered to be satellite corporate limits until the intervening territory has been annexed.

SECTION 3. This act becomes effective June 30, 2004.

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law on the date it was ratified.

H.B. 1678

Session Law 2004-43

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF NORWOOD.

The General Assembly of North Carolina enacts:

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

Lake Shore Drive Area

BEGINNING AT A CORNER on the existing municipal boundary line for the Town of Norwood, said corner being near the North Carolina NAD 83 grid coordinates of 542675 feet North and 1663376 feet East, said corner being located North 75-29-42 West 1,808.65 feet from the centerline intersection of Indian Mound Road and Summit Street in Stanly County, North Carolina, said point being the westernmost corner on the boundary of Stanly County Parcel 656403328932, said corner being on the northern right-of-way for Summit Street; thence leaving the existing municipal boundary for the Town of Norwood and following the boundaries of Stanly County Parcel 656403335435 the following calls: North 14-33-05 East 5.97 feet, North 14-33-04 East 5.97 feet, North 15-59-01 East 27.24 feet, North 14-22-23 East 38.79 feet, North 16-15-42 East 36.62 feet, North 23-35-47 East 35.92 feet, North 35-44-58 East 37.67 feet, North 45-34-49 East 22.76 feet, North 49-18-25 East 22.43 feet, North 51-07-53 East 20.72 feet, North 47-40-45 East 16.23 feet, North 39-35-57 East 17.85 feet, North 34-58-21 East 22.69 feet, North 34-17-10 East 24.64 feet, North 35-04-07 East 23.51 feet, North 39-34-48 East 32.58 feet, North 42-49-50 East 32.56 feet, North 41-24-21 East 33.28 feet, North 36-08-38 East 35.20 feet, North 30-27-01 East 20.98 feet, North 27-10-22 East 20.54 feet, North 24-30-45 East 18.69 feet, North 20-41-53 East 15.22 feet, North 21-29-08 East 15.03 feet, North 25-11-24 East 18.81 feet, North 28-50-09 East 20.23 feet, North 32-55-58 East 19.09 feet, North 37-11-39 East 16.96 feet, North 40-32-10 East 17.13 feet, North 42-42-58 East 18.06 feet, North 41-52-16 East 19.86 feet, North 41-22-11 East 16.84 feet, North 38-10-21 East 16.39 feet, North 30-26-02 East 13.83 feet, North 13-09-44 East 9.89 feet, North 00-00-32 East 6.35 feet, North 06-52-30 East 8.36 feet, North 11-53-52 East 9.71 feet, North 13-36-34 East 10.10 feet, North 18-44-11 East 16.35 feet, North 24-51-29 East 14.58 feet, North 31-08-33 East 14.51 feet, North 34-07-38 East 15.16 feet, North 33-35-29 East 17.86 feet, North 32-35-47 East 17.87 feet, North 28-12-30 East 16.14 feet, North 18-05-01 East 12.89 feet, North 02-25-58 East 23.61 feet, North 03-55-49 West 21.85 feet, North 09-44-04 West 28.83 feet, North 14-05-27 West 31.32 feet, North 19-19-20 West 14.36 feet, North 26-21-53 West 12.67 feet, North 31-46-36 West 11.87 feet, North 34-39-53 West 11.43 feet, North 35-17-31 West 14.71 feet, North 35-06-06 West 13.92 feet, North 36-36-35 West 12.16 feet, North 38-06-07 West 9.32 feet, North 40-15-29 West 8.71 feet, North 33-39-51 West 11.05 feet, North 28-36-28 West 12.54 feet, North 15-42-20 West 12.48 feet, North 00-00-28 West 7.29 feet, North 16-57-14 East 6.85 feet, North 25-25-00 East 6.99 feet, North 28-32-19 East 7.32 feet, North 24-38-34 East 10.79 feet, North 21-04-30 East 10.77 feet, North 19-56-10 East 9.89 feet, North 19-07-20 East 8.38 feet, North 26-40-07 East 17.81 feet, North 33-30-40 East 21.04 feet, North 38-51-24 East 23.09 feet, North 41-26-07 East 23.40 feet, North 45-13-55 East 21.64 feet, North 46-44-13 East 20.41 feet, North 44-24-07 East 20.53 feet, North 38-26-28 East 21.89 feet, North 33-10-10 East 13.92 feet, North 30-41-53 East 13.69 feet, North 32-35-43 East 12.05 feet, North 37-23-04 East 9.25 feet, North 44-18-01 East 10.19 feet, North 46-21-15 East 13.46 feet, North 45-32-55 East 15.22 feet, North 42-14-07 East 15.23 feet, North 35-06-34 East 24.96 feet, North 25-52-30 East 23.43 feet, North 21-37-39 East 23.67 feet, North 20-20-58 East 24.73 feet, North 23-25-04 East 20.39 feet, North 23-33-25 East 20.27 feet, North 19-51-55 East 18.70 feet, North 11-50-59 East 15.74 feet, North 00-04-06 West 28.49 feet, North 07-02-55 West 33.96 feet, North 12-18-32 West 35.38 feet, North 17-11-02 West 32.28 feet, North 18-12-06 West 24.50 feet, North 16-22-41 West 25.81 feet, North 13-02-16 West 27.28 feet, North 08-34-32 West 28.71 feet, North 07-57-15 West 7.28 feet, North 05-08-35 West 7.05 feet, North

03-29-12 East 9.09 feet, North 11-38-28 East 10.79 feet, North 16-34-43 East 9.61 feet, North 14-57-21 East 9.66 feet, North 12-21-25 East 8.72 feet, North 07-17-48 East 6.83 feet, North 02-52-45 East 7.35 feet, North 01-46-34 East 7.84 feet, North 00-49-25 East 8.21 feet, North 00-25-21 East 15.05 feet, North 02-51-57 East 14.76 feet, North 05-50-58 East 13.38 feet, North 17-52-34 East 7.72 feet, North 57-11-02 West 533.37 feet, and South 08-43-29 West 544.70 feet to the southernmost corner for Stanly County Parcel 656401269110; thence following the boundaries for said parcel North 42-52-01 West 433.27 feet and North 36-14-46 West 2343.46 feet to a corner on the southern boundary of Stanly County Parcel 656401382147; thence following the southern boundaries for said parcel the following calls: North 58-32-54 East 196.61 feet, North 58-29-24 East 772.02 feet, North 58-28-56 East 222.80 feet, North 58-28-13 East 641.07 feet, South 39-11-19 East 232.76 feet, South 39-09-59 East 258.21 feet, and South 39-25-18 East 7.28 feet to the intersection of the southern boundary for said parcel and the western right-of-way for Indian Mound Road; thence crossing the right-of-way for Indian Mound Road South 79-51-08 East 68.70 feet to a point on the eastern right-of-way for Indian Mound Road, said point being the northernmost corner for Stanley County Parcel 656401369398; thence following the northeastern boundaries for said parcel the following calls: South 35-37-40 East 214.82 feet, South 40-17-56 East 258.09 feet, South 39-57-07 East 44.35 feet, and South 40-44-52 East 248.22 feet to the easternmost corner for said parcel, said corner being on the western bank of Lake Tillery, thence following the boundaries of parcels on the western bank of Lake Tillery South 12-09-19 West 223.82 feet, South 16-32-58 West 325.35 feet, South 16-32-58 West 11.45 feet, and South 16-32-58 West 20.62 feet to a point on the eastern right-of-way for Indian Mound Road; thence south with said right-of-way South 36-17-01 East 545.14 feet to the westernmost corner for Stanly County Parcel 656401454426, said corner being on the western bank of Lake Tillery, thence following the boundaries of parcels on the western bank of Lake Tillery the following calls: North 21-30-52 East 26.17 feet, North 21-30-52 East 8.03 feet, North 21-30-52 East 105.37 feet, North 15-42-56 West 63.18 feet, North 72-51-16 East 46.84 feet, North 20-13-31 East 14.41 feet, North 20-07-06 East 134.06 feet, North 19-41-45 East 12.27 feet, North 19-40-59 East 596.15 feet, North 51-27-13 East 355.06 feet, North 42-05-29 East 116.57 feet, North 41-58-28 East 267.70 feet, North 30-13-29 East 466.54 feet, North 78-04-22 East 115.30 feet, North 78-04-22 East 41.10 feet, South 28-01-27 East 209.43 feet, North 54-57-11 East 186.16 feet, South 85-25-43 East 255.49 feet, South 12-27-23 East 703.18 feet, South 84-50-37 East 85.30 feet, North 20-36-46 East 1166.61 feet, North 20-38-05 East 41.28 feet, South 43-10-18 East 52.95 feet, South 43-16-05 East 391.36 feet, South 43-16-04 East 92.36 feet, South 22-55-23 West 86.93 feet, South 22-55-26 West 65.75 feet, South 22-55-25 West 47.53 feet, South 22-55-24 West 88.11 feet, South 22-55-24 West 47.20 feet, South 22-55-27 West 43.02 feet, South 22-55-24 West 50.38 feet, South 22-55-26 West 54.28 feet, South 22-55-25 West 110.89 feet, South 22-55-23 West 49.20 feet, North 71-59-02 East 150.03 feet, South 20-46-12 East 33.79 feet, South 07-22-20 East 19.00 feet, South 07-22-19 East 49.10 feet, South 07-22-18 East 50.38 feet, South 07-22-18 East 29.22 feet, South 17-52-37 West 83.69 feet, and South 17-52-37 West 36.58 feet to the northernmost corner for Stanly County Parcel 656402760300; thence crossing a portion of Lake Tillery North 62-54-03 East 982.64 feet to the westernmost corner for Stanly County Parcel 656402860912, said corner being on the western bank of Lake Tillery, thence following the boundaries of parcels on the western bank of Lake Tillery the following calls: North 27-09-06 East 14.77 feet, North 27-09-06 East 6.22 feet, North 27-09-06 East 7.66 feet, North

27-09-06 East 144.52 feet, North 27-09-06 East 19.88 feet, North 01-12-00 West 71.02 feet, North 30-43-39 East 32.17 feet, North 30-43-40 East 20.66 feet, North 15-08-32 East 74.52 feet, North 15-08-32 East 50.77 feet, North 15-08-32 East 36.13 feet, North 15-08-32 East 60.05 feet, North 71-15-39 East 76.19 feet, North 46-57-23 East 6.15 feet, North 46-57-22 East 62.12 feet, North 35-52-58 West 28.28 feet, North 49-04-22 East 16.13 feet, North 49-15-20 East 15.42 feet, North 55-57-45 East 18.80 feet, North 56-02-00 East 14.99 feet, North 55-42-33 East 19.00 feet, North 36-23-33 East 19.23 feet, North 36-35-49 East 45.41 feet, North 36-30-58 East 15.58 feet, North 36-26-48 East 21.09 feet, North 36-33-06 East 6.31 feet, North 70-32-08 East 11.28 feet, North 70-33-25 East 28.38 feet, North 68-40-18 East 8.59 feet, North 62-33-31 East 10.85 feet, North 58-37-13 East 7.32 feet, North 58-48-03 East 7.60 feet, North 55-57-03 East 10.71 feet, North 56-55-00 East 8.36 feet, North 56-19-01 East 6.76 feet, North 55-05-22 East 7.32 feet, North 53-46-43 East 6.66 feet, North 50-29-28 East 6.48 feet, North 46-44-09 East 5.84 feet, North 31-36-22 East 10.49 feet, North 39-16-59 East 7.11 feet, North 48-22-20 East 7.53 feet, North 50-18-17 East 8.12 feet, North 44-03-47 East 8.09 feet, North 48-29-57 East 8.68 feet, North 53-40-55 East 10.55 feet, North 58-14-33 East 9.26 feet, North 61-45-45 East 11.49 feet, North 63-01-47 East 7.71 feet, North 75-31-15 East 7.75 feet, North 85-15-27 East 6.77 feet, North 75-36-00 East 9.55 feet, North 67-18-21 East 6.64 feet, North 72-06-29 East 6.30 feet, North 82-38-37 East 7.31 feet, North 88-10-02 East 7.75 feet, North 84-18-11 East 8.79 feet, North 75-01-44 East 9.19 feet, North 55-27-36 East 11.68 feet, North 33-11-14 East 8.22 feet, North 29-18-02 East 8.17 feet, North 21-55-34 East 9.71 feet, North 24-33-05 East 7.22 feet, North 30-16-55 East 6.44 feet, North 42-15-39 East 9.29 feet, North 48-27-30 East 9.52 feet, North 47-49-47 East 8.94 feet, North 45-15-21 East 9.50 feet, North 57-28-24 East 5.93 feet, North 50-00-09, East 9.63 feet, North 30-16-36 East 8.18 feet, North 08-30-58 East 5.06 feet, North 00-44-46 West 9.75 feet, North 09-33-16 East 10.53 feet, North 13-25-43 East 11.02 feet, North 19-22-00 East 7.72 feet, North 33-40-16 East 5.86 feet, North 39-06-55 East 2.30 feet, North 39-06-55 East 9.78 feet, North 01-09-16 West 6.25 feet, North 07-34-14 East 5.68 feet, North 17-30-57 East 7.47 feet, North 14-11-55 East 9.67 feet, North 09-39-41 East 8.18 feet, North 19-20-53 East 10.93 feet, North 31-16-19 East 7.46 feet, North 42-07-05 East 9.69 feet, North 59-07-06 East 7.43 feet, North 69-45-39 East 8.13 feet, North 67-51-29 East 7.63 feet, North 64-20-26 East 16.02 feet, North 52-07-15 East 8.55 feet, North 35-31-37 East 7.53 feet, North 21-34-20 East 6.45 feet, North 20-50-22 East 8.43 feet, North 28-57-36 East 9.29 feet, North 36-20-06 East 6.75 feet, North 57-57-43 East 33.78 feet, North 41-47-43 East 7.06 feet, North 43-07-08 East 116.58 feet, North 53-59-51 East 73.00 feet, South 75-40-47 East 110.87 feet, South 65-46-22 East 90.77 feet, North 80-28-21 East 44.46 feet, South 89-03-14 East 11.63 feet, South 78-48-05 East 9.69 feet, South 72-48-02 East 7.20 feet, South 72-01-12 East 7.10 feet, South 72-04-02 East 6.31 feet, South 70-14-44 East 6.11 feet, South 67-35-32 East 6.90 feet, South 64-30-46 East 8.72 feet, South 59-12-31 East 9.53 feet, South 45-51-08 East 14.55 feet, South 45-24-26 East 5.97 feet, South 48-30-52 East 7.18 feet, South 48-58-23 East 7.62 feet, South 47-44-03 East 6.42 feet, South 44-50-24 East 8.87 feet, South 43-38-52 East 12.32 feet, South 41-12-04 East 11.39 feet, South 40-26-15 East 10.89 feet, South 43-50-20 East 10.02 feet, South 53-48-54 East 6.04 feet, South 49-56-34 East 8.17 feet, South 43-42-37 East 5.97 feet, South 39-24-09 East 5.91 feet, South 38-03-51 East 5.88 feet, South 38-53-48 East 8.96 feet, South 40-49-06 East 8.22 feet, South 37-51-16 East 8.56 feet, South 32-59-03 East 5.74 feet, South 38-25-24 East 10.06 feet, South 49-00-55 East 8.77 feet, South 50-15-28 East 10.08 feet, South 47-57-13 East 8.92 feet, South 40-23-23 East

10.22 feet, South 39-54-07 East 7.99 feet, South 43-34-31 East 7.25 feet, South 45-42-43 East 10.30 feet, South 44-20-49 East 12.16 feet, South 40-47-28 East 72.83 feet, South 40-47-28 East 111.53 feet, South 68-37-30 East 70.00 feet, North 02-12-30 East 107.00 feet, North 35-23-30 East 18.87 feet, North 34-05-57 East 4.41 feet, North 10-40-05 East 72.56 feet, North 39-21-11 East 43.30 feet, North 39-21-10 East 116.21 feet, North 33-14-12 East 49.20 feet, North 62-57-48 East 53.19 feet, North 85-20-21 East 12.29 feet, North 95-23-53 East 19.59 feet, North 85-23-53 East 37.36 feet, North 85-22-39 East 40.13 feet, North 84-53-11 East 21.22 feet, North 84-54-33 East 54.63 feet, North 84-52-59 East 60.04 feet, North 88-46-03 East 5.58 feet, North 88-06-43 East 15.88 feet, South 69-33-54 East 21.78 feet, South 37-12-28 East 25.54 feet, South 32-16-51 East 26.70 feet, South 32-16-52 East 77.63 feet, South 32-16-50 East 51.71 feet, South 37-02-29 East 211.37 feet, North 37-37-11 East 41.69 feet, North 37-40-23 East 53.96 feet, North 37-32-55 East 54.35 feet, North 37-29-01 East 44.34 feet, North 37-37-26 East 55.40 feet, North 38-24-09 East 53.11 feet, North 81-01-16 East 52.07 feet, North 81-00-45 East 57.61 feet, North 17-51-26 West 74.22 feet, South 74-37-45 West 5.25 feet, South 74-37-46 West 6.29 feet, North 03-21-13 East 14.01 feet, North 03-21-15 East 3.08 feet, North 03-18-46 East 32.43 feet, North 37-42-11 West 67.88 feet, North 49-09-57 West 56.52 feet, North 64-54-39 West 109.45 feet, North 17-50-24 West 126.02 feet, North 81-44-22 East 147.58 feet, North 32-38-44 East 61.21 feet, North 07-42-11 East 38.50 feet, North 07-46-01 East 36.52 feet, North 20-43-07 West 11.78 feet, North 20-21-15 West 11.78 feet, North 19-54-08 West 48.79 feet, North 20-05-47 West 51.35 feet, North 57-44-51 West 79.92 feet, North 57-31-05 West 47.58 feet, North 57-35-46 West 53.75 feet, North 26-02-45 East 113.56 feet, North 00-57-08 West 97.31 feet, North 55-00-00 West 138.57 feet, North 70-56-15 West 105.59 feet, North 55-07-43 West 45.15 feet, North 47-32-12 West 28.34 feet, North 47-32-13 West 8.59 feet, North 17-46-23 West 29.07 feet, South 72-49-55 West 59.92 feet, South 77-24-22 West 172.12 feet, South 18-17-14 East 348.63 feet, South 18-27-05 East 321.99 feet, South 18-06-14 East 233.99 feet, South 17-40-27 East 125.45 feet, South 26-42-50 East 190.34 feet, South 26-38-26 East 227.22 feet, South 26-27-09 East 141.50 feet, South 80-55-44 West 115.73 feet, South 80-56-15 West 216.75 feet, South 78-02-16 West 256.08 feet, South 75-33-17 West 71.65 feet, South 75-33-18 West 252.05 feet, South 72-06-29 West 256.65 feet, North 20-21-17 West 656.06 feet, North 76-43-37 West 511.39 feet, North 74-13-05 West 112.27 feet, North 74-13-05 West 1644.10 feet, South 85-34-06 West 86.64 feet, South 87-03-08 West 211.39 feet, North 66-01-39 West 107.07 feet, North 66-01-44 West 206.87 feet, South 83-52-47 West 45.26 feet, North 83-01-07 West 815.78 feet, North 07-50-51 East 87.48 feet, South 78-16-54 West 474.52 feet, South 79-11-57 West 67.54 feet, South 79-12-02 West 3.72 feet, South 79-41-09 West 51.08 feet, North 06-56-45 West 18.15 feet, North 05-10-14 West 9.61 feet, North 05-10-08 West 3.41 feet, North 04-47-54 West 3.57 feet, North 04-47-58 West 3.57 feet, North 05-22-09 West 7.81 feet, North 03-10-37 West 15.95 feet, North 04-00-56 West 20.75 feet, North 03-19-14 West 9.75 feet, North 03-20-56 West 6.13 feet, North 03-20-52 West 3.84 feet, North 04-03-31 West 14.34 feet, North 03-25-41 West 10.39 feet, North 02-44-03 West 5.87 feet, North 02-27-27 West 10.03 feet, North 02-51-37 West 14.15 feet, North 01-24-08 West 13.84 feet, North 00-37-18 West 7.15 feet, North 00-37-21 West 8.53 feet, North 02-19-57 West 40.76 feet, North 04-27-24 West 12.15 feet, North 05-09-17 West 10.69 feet, North 04-13-57 West 24.65 feet, North 02-33-06 West 13.77 feet, North 02-23-54 West 10.51 feet, North 02-23-58 West 6.52 feet, North 02-08-47 West 26.62 feet, North 03-00-31 West 29.15 feet, North 02-19-20 West 469.41 feet, North 04-17-44 East 9.23 feet, North 64-52-33 West 68.86

feet, North 79-35-17 West 70.66 feet, North 79-35-17 West 45.89 feet, North 79-46-28 West 152.65 feet, North 79-55-37 West 105.38 feet, North 79-36-45 West 103.06 feet, North 79-39-48 West 101.91 feet, North 79-43-19 West 324.60 feet, North 79-45-43 West 49.16 feet, South 04-53-13 West 22.05 feet, South 04-47-48 West 289.11 feet, South 04-47-48 West 70.23 feet, South 04-50-27 West 245.66 feet, North 59-52-09 West 37.77 feet, North 59-59-25 West 178.89 feet, South 27-30-12 West 102.89 feet, North 60-30-00 West 99.69 feet, South 27-38-57 West 130.96 feet, South 27-44-24 West 64.20 feet, North 59-19-06 West 111.50 feet, North 59-19-31 West 146.26 feet, and North 59-19-31 West 64.06 feet to the **POINT OF BEGINNING**.

The tract described above encompasses 1,022.77 Acres more or less.

South Strand Drive Area

BEGINNING AT A CORNER on the existing municipal boundary line for the Town of Norwood, said corner being near the North Carolina NAD 83 grid coordinates of 540733 feet North and 1672444 feet East, said corner being located North 44-06-34 East 136.49 feet from the centerline intersection of South Strand Drive and Tranquil Bay Circle in Stanly County, North Carolina, said point being on the northern boundary of Stanly County Parcel 657403204711, said boundary being on the western bank of Lake Tillery; thence leaving the existing municipal boundary for the Town of Norwood and following the boundaries of parcels on the western bank of Lake Tillery the following calls: North 27-30-14 East 57.24 feet, North 85-31-57 East 88.33 feet, North 51-01-33 East 8.97 feet, North 51-01-36 East 21.49 feet, North 51-01-29 East 122.88 feet, South 74-22-47 East 44.29 feet, South 74-22-47 East 46.40 feet, South 39-36-31 East 84.42 feet, South 61-05-54 East 11.95 feet, South 55-41-21 East 11.86 feet, South 61-34-56 East 132.29 feet, South 06-16-45 East 39.07 feet, South 06-16-45 East 46.65 feet, South 10-03-53 West 91.41 feet, South 19-47-14 West 110.99 feet, South 78-02-12 West 89.92 feet, North 32-34-19 West 74.00 feet, North 25-09-22 West 64.94 feet, North 25-12-08 West 7.88 feet, North 22-34-12 West 7.86 feet, North 19-23-53 West 39.44 feet, North 46-52-25 West 79.00 feet, South 75-27-30 West 63.32 feet, North 64-50-56 West 45.23 feet, South 74-37-59 West 49.46 feet, and South 74-37-59 West 38.59 feet to a point on the existing municipal boundary for the Town of Norwood, said corner being the southwestern corner for Stanly County Parcel 657403206686; thence following the existing municipal boundary the following calls: North 24-59-09 West 20.45 feet, North 24-59-26 West 16.23 feet, North 26-03-07 West 3.84 feet, North 26-03-00 West 8.27 feet, and North 24-44-12 West 64.10 feet to the **POINT OF BEGINNING**.

The tract described above encompasses 2.81 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 30th day of June, 2004.

Became law on the date it was ratified.

H.B. 1684

Session Law 2004-44

AN ACT TO ESTABLISH SEASONS FOR HUNTING AND TRAPPING FOXES IN
VANCE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 208 of the 1993 Session Laws reads as rewritten:

"Section 1. Notwithstanding any other provision of law, there is an open season for taking foxes with weapons in ~~Granville County and Franklin County~~ Franklin, Granville, and Vance Counties from October 1 through January 31 of each year."

SECTION 2. Section 2 of Chapter 208 of the 1993 Session Laws reads as rewritten:

"Sec. 2. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping in ~~Granville County and Franklin County~~ Franklin, Granville, and Vance Counties from October 1 through January 31 of each year."

SECTION 3. Section 9 of Chapter 208 of the 1993 Session Laws reads as rewritten:

"Sec. 9. Sections 1 through 3 of this act apply only to ~~Granville and Franklin~~ Franklin, Granville, and Vance Counties. Sections 4 through 8 of this act apply only to Brunswick County."

SECTION 4. This act becomes effective October 1, 2004.

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law on the date it was ratified.

H.B. 1722

Session Law 2004-45

AN ACT TO INCREASE THE MEMBERSHIP OF THE CURRITUCK ALCOHOLIC BEVERAGE CONTROL BOARD FROM THREE TO FIVE MEMBERS.

The General Assembly of North Carolina enacts:

SECTION 1. 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 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.~~ terms. 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. 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 2 of this act."

SECTION 2. The Board of Commissioners shall appoint additional members authorized by this act to serve one-year and two-year initial terms and then for three-year terms thereafter. The initial terms shall be decided upon to maintain the staggered appoint periods required by G.S. 18B-700(a) as amended by Section 1 of this act.

SECTION 3. This act applies to Currituck County only.

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

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law on the date it was ratified.

H.B. 1724

Session Law 2004-46

AN ACT RELATING TO THE DEFINITION OF SUBDIVISION IN HARNETT AND PITT COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 1997-246 and S.L. 2001-50, as those acts amend G.S. 153A-335 and G.S. 160A-376 as applicable to Harnett County and the municipalities in Harnett County, are repealed.

SECTION 2. G.S. 153A-335, as it applies to Pitt County, 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:

- (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 or for public transportation system corridors; ~~and~~
- (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-regulations~~;
- (5) The division of a tract among heirs of a deceased person as part of the settlement of the deceased person's estate by action of a will or other legal proceeding; and
- (6) The division of land by any method of transfer from a grantor to a grantee (or grantees) who is a member of the grantor's immediate family, solely for the residential use of the grantee (or grantees). For the purposes of this section, the term "immediate family" shall include only direct lineal descendants (children and grandchildren) and direct lineal ascendants (father, mother, grandfather, and grandmother)."

SECTION 3. Section 1 of this act applies to Harnett County and the municipalities in Harnett County only. Section 2 of this act applies to Pitt County only.

SECTION 4. Section 1 of this act becomes 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 30th day of June, 2004.

Became law on the date it was ratified.

H.B. 1732

Session Law 2004-47

AN ACT TO CLARIFY THE WARD BOUNDARIES OF THE CITY OF SOUTHPORT TO REFLECT RECENT ANNEXATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of the Charter of the City of Southport, being Chapter 659 of the 1983 Session Laws, reads as rewritten:

"Sec. 3.2. Wards. The City of Southport shall be divided into two wards as follows:

Ward No. 1 shall be that portion of the City lying to the eastward of the center line of Howe Street ~~from the point where this line, projected, intersects the channel of the Cape Fear River, to the intersection of said Howe Street with the northern line of the limits of the City of Southport.~~ and the Southport-Supply Road (also known as Highway 211), including any contiguous or noncontiguous areas.

Ward No. 2 shall be all that portion of the City lying to the westward of the ~~above described line.~~ centerline of Howe Street and the Southport-Supply Road (also known as Highway 211), including any contiguous or noncontiguous areas."

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

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law on the date it was ratified.

S.B. 1219

Session Law 2004-48

AN ACT TO INCREASE THE PERCENTAGE OF REVENUE CREDITED TO THE DRY-CLEANING SOLVENT CLEANUP FUND THAT MAY BE USED TO PAY COSTS OF ASSESSMENT OR REMEDIATION OF DRY-CLEANING SOLVENT CONTAMINATION THAT OCCURRED PRIOR TO 1 JULY 2001, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.(c) of S.L. 2001-265 reads as rewritten:

"**SECTION 2.(c)** The total of all payments made pursuant to this section in a single fiscal year shall not exceed ~~ten percent (10%)~~ twenty-five percent (25%) of the revenues credited to the Dry-Cleaning Solvent Cleanup Fund in the preceding fiscal year."

SECTION 2. This act becomes effective 1 July 2004.

In the General Assembly read three times and ratified this the 24th day of June, 2004.

Became law upon approval of the Governor at 12:41 p.m. on the 1st day of July, 2004.

S.B. 1159

Session Law 2004-49

AN ACT TO MODIFY THE MEMBERSHIP OF THE ADVISORY COMMISSION ON MILITARY AFFAIRS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 127C-2 reads as rewritten:

"§ 127C-2. **Membership.**

(a) The North Carolina Advisory Commission on Military Affairs shall consist of 21 voting members, who shall serve on the Executive Committee, and ~~nine~~ 15 nonvoting, ex officio members who shall serve by reason of their positions.

(b) The Executive Committee shall be appointed as follows:

- (1) Three members appointed by the Speaker of the House of Representatives, one of whom shall be a member of a recognized veterans' organization.
- (2) Three members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of a recognized veterans' organization.
- (3) Fifteen members appointed by the Governor, consisting of:
 - a. Three representatives from the Jacksonville community.
 - b. Three representatives from the Havelock community.
 - c. Three representatives from the Goldsboro community.
 - d. Three representatives from the Fayetteville community.
 - e. Three public members from across the State.

(c) The following ~~members~~members, or their designee, shall serve ex officio:

- (1) The Lieutenant Governor.
- ~~(1)~~(2) Secretary of Crime Control and Public Safety, or a designee.~~Safety.~~
- ~~(2)~~(3) Secretary of Commerce, or a designee.~~Commerce.~~
- (4) The Secretary of Transportation.
- (5) The Secretary of the Department of Environment and Natural Resources.
- ~~(3)~~(6) Commanding General 18th Airborne Corps, Fort Bragg.
- ~~(4)~~(7) Commanding General Marine Corps Base, Camp Lejeune.
- ~~(5)~~(8) Commanding General Marine Corps Air Station, Cherry Point.
- ~~(6)~~(9) Commander 4th FW, Seymour Johnson Air Force Base.
- ~~(7)~~(10) Commander 43rd Airlift Wing, Pope Air Force Base.
- ~~(8)~~(11) Commander of the U.S. Coast Guard Support Center, Elizabeth City.
- ~~(9)~~(12) Adjutant General of the North Carolina National Guard.
- (13) The Executive Director of the North Carolina League of Municipalities.
- (14) The Executive Director of the North Carolina Association of County Commissioners.
- (15) The Assistant Secretary for Veterans Affairs, Department of Administration.

(d) The Governor shall designate one member of the Executive Committee appointed pursuant to subsection (b) of this section to serve as chair. The Executive Committee shall elect four persons from amongst its membership to serve as vice-chairs.

(e) The terms of the members of the Executive Committee shall be as follows:

- (1) The members initially appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve terms ending on December 31, 2003.
- (2) Seven of the members appointed by the Governor shall serve initial terms ending on December 31, 2002.
- (3) Eight of the members appointed by the Governor shall serve initial terms ending on December 31, 2003.

Thereafter, all members shall serve two-year terms."

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

In the General Assembly read three times and ratified this the 24th day of June, 2004.

Became law upon approval of the Governor at 12:43 p.m. on the 1st day of July, 2004.

H.B. 1668**Session Law 2004-50**

AN ACT TO AMEND THE ACT ESTABLISHING THE SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF WILSON.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of Chapter 138 of the 1969 Session Laws reads as rewritten:

"**Sec. 3.** Supplemental Retirement Benefits. (a) Each retired fireman of the City who has previously retired with twenty (20) years service or more as a City fireman shall be entitled to and shall receive the following supplemental retirement benefits:

- (1) one share for each full year of service as a full-time and fully-paid fireman of the City;
- (2) one share for each full year of service as a part-time, partly-paid fireman of the City;
- (3) one share for each full year of service as a volunteer fireman of the City.

(b) Any former fireman of the City, either full-time and fully-paid, part-time, partly-paid, or volunteer, who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this Section, shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

- (1) that he initially retired from his position as fireman after a minimum of five years of service because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (2) that, within thirty (30) days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the City a position of employment the normal duties of which he was capable of performing; and
- (4) that, ~~since the preceding January 1, within the past five years, at least two physicians licensed to practice medicine in North Carolina have~~ one physician has certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active ~~fireman;~~ and fireman.
- (5) ~~that there is not available to him in the fire department or in any other department of the City a position of employment the normal duties of which he is capable of performing; provided, that the Board of Trustees, after initially making the findings of fact specified in (1), (2),~~

~~and (3) of this subsection, need not specify such findings in subsequent calendar years."~~

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

In the General Assembly read three times and ratified this the 1st day of July, 2004.

Became law on the date it was ratified.

S.B. 1178

Session Law 2004-51

AN ACT ABOLISHING THE OFFICE OF CORONER IN WILKES COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The office of coroner in Wilkes County is abolished.

SECTION 2. Chapter 152 of the General Statutes is not applicable to Wilkes County.

SECTION 3. This act becomes effective upon the expiration of the term of the current coroner in Wilkes County.

In the General Assembly read three times and ratified this the 6th day of July, 2004.

Became law on the date it was ratified.

S.B. 1201

Session Law 2004-52

AN ACT TO PROHIBIT HUNTING FROM THE RIGHT-OF-WAY IN ROBESON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to hunt, take, or kill any wild animal or wild bird, or to attempt to hunt, take, or kill any wild animal or wild bird, with the use of a firearm or bow and arrow, from, on, across, or over the roadway or right-of-way of any public road, street, or highway.

SECTION 2. Violation of the provisions of this act is punishable as a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, violation of this act is punishable by a fine of up to three hundred dollars (\$300.00). A second or subsequent violation of Section 1 of this act is punishable by a fine of at least three hundred dollars (\$300.00) and the loss of hunting privileges for a period of 12 months from the date of the violation.

SECTION 3. 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 4. This act applies only to Robeson County. This act becomes effective October 1, 2004, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 6th day of July, 2004.

Became law on the date it was ratified.

S.B. 1233

Session Law 2004-53

AN ACT TO AUTHORIZE THE TOWN OF PINEBLUFF TO CONVEY TO ADJACENT PROPERTY OWNERS TROLLEY EASEMENTS AT PRIVATE NEGOTIATED SALE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2003-48 reads as rewritten:

"**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 trolley easements, 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 6th day of July, 2004.

Became law on the date it was ratified.

S.B. 1277

Session Law 2004-54

AN ACT PROVIDING FOR STAGGERED TERMS FOR THE TOWN BOARD OF THE TOWN OF MADISON.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.3(a) of the Charter of the Town of Madison, being Chapter 289 of the 1973 Session Laws, reads as rewritten:

"(a) The members of the Board of Aldermen shall serve for terms of ~~two~~-four years, and the Mayor shall ~~also~~ 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. In the 2005 municipal election, six members shall be elected. The three persons receiving the highest numbers of votes shall receive four-year terms, and the three persons receiving the next highest numbers of votes shall receive two-year terms. In 2007 and biennially thereafter, three members shall be elected for four-year terms."

SECTION 2. This act becomes effective beginning with the 2005 municipal election and does not affect the term of office of any current members.

In the General Assembly read three times and ratified this the 6th day of July, 2004.

Became law on the date it was ratified.

S.B. 1279

Session Law 2004-55

AN ACT TO ALLOW THE ROCKINGHAM COUNTY BOARD OF COMMISSIONERS TO CONTRACT WITH BOTH THE TOWN OF MAYODAN FIRE DEPARTMENT AND THE TOWN OF MADISON FIRE DEPARTMENT TO PROVIDE FIRE PROTECTION SERVICES IN THE M & M FIRE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 69-25.5, or any other provision of law, the Rockingham County Board of Commissioners may contract with both the Town of Mayodan Fire Department and the Town of Madison Fire Department to provide fire protection services in the area designated as the M & M Fire District as shown on the Rockingham County Fire Insurance District Map of 2001.

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

In the General Assembly read three times and ratified this the 6th day of July, 2004.

Became law on the date it was ratified.

H.B. 1369

Session Law 2004-56

AN ACT TO PROVIDE THAT THE WESTERN BOUNDARY OF THE TOWN OF EMERALD ISLE EXTENDS TO THE BOGUE INLET CHANNEL AS IT FLUCTUATES OVER TIME TO ALLOW ALL UPLAND AREAS CONNECTED TO BOGUE BANKS ON THE WESTERN END OF THE ISLAND TO BE IN THE TOWN LIMITS AND TO ANNEX CERTAIN DESCRIBED TERRITORY INTO THE TOWN OF MIDLAND.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.1 of the Charter of the Town of Emerald Isle, being Chapter 526 of the 1973 Session Laws, reads as rewritten:

"Sec. 2.1. Existing Corporate Boundaries. The corporate boundaries of the Town of Emerald Isle shall be as follows until changed in accordance with law: Beginning at a concrete marker at the high water mark of the Atlantic Ocean, this being the southwest corner of Wica Chemical Company property (formerly being the Roosevelt Estate southwest corner), this point also being located South 71 degrees 35 minutes West 7255.0 feet from the church spire at Salter Path Village, located North of the Salter Path Road; thence running with the Wica Chemical Company West property line North 03 degrees 35 minutes West 452.80 feet to a concrete monument marked 'A.H. (Alice Hoffman) Lane'; thence continuing same course 203.7 feet to a concrete monument at the high water mark of Bogue Sound (Wica Chemical Company northwest corner); thence continuing North 03 degrees 35 minutes West 1350 feet to a point in Bogue Sound; then in a westerly direction parallel to and 1320 feet from the water line of Bogue Sound to a point in Bogue Sound formed by the intersection of this call and a line perpendicular thereto passing through the westernmost projection of Bogue banks at the mean high water mark; thence southerly along said line as extended to a point where said line meets the high water line of the Atlantic Ocean; thence due South 2640 feet to a point in the Atlantic Ocean; thence in an easterly direction parallel to and 2640 feet from the high water line of the Atlantic Ocean to a point which is 2640 feet South 03 degrees 35 minutes East from the concrete monument which is heretofore described as the point of the beginning; thence continuing North 03 degrees 35 minutes West 2640 feet to the point of beginning. All the above courses are based on true meridian. To allow all upland areas connected to Bogue Banks on the western end of the island to be in the corporate limits, the western boundary of the town shall extend to the Bogue Inlet channel as it exists from time to time, whether by natural forces, acts of God, accretion, dredging, or human causes."

SECTION 2. The following described property is removed from the corporate limits of the Town of Stanfield and is added to the corporate limits of the Town of Midland:

BEGINNING at a existing railroad spike in the centerline of the pavement of Pine Bluff Road (SR 1100), said spike being located North 10 degrees 41 minutes 53 seconds East 850.64 feet from an existing PK nail in the centerline intersection of the pavement of Pine Bluff Road and Nance Road;

THENCE with the centerline of the pavement of Pine Bluff Road 6 calls, 1-North 11 degrees 06 minutes 05 seconds East for a distance of 144.75 feet to a new mag nail; 2-North 11 degrees 54 minutes 10 seconds East for a distance of 100.46 feet to a new mag nail; 3-North 12 degrees 32 minutes 52 seconds East for a distance of 251.63 feet to a new mag nail; 4-North 12 degrees 35 minutes 22 seconds East for a distance of 126.04 feet to a new mag nail; 5-North 12 degrees 00 minutes 03 seconds East for a distance of 137.88 feet to a new mag nail, 6- North 11 degrees 37 minutes 26 seconds East for a distance of 121.87 feet to an existing nail in the centerline of said pavement; THENCE North 85 degrees 12 minutes 10 seconds West for a distance of 130.90 feet to a new iron pipe; THENCE North 09 degrees 36 minutes 02 seconds East for a distance of 76.20 feet to a new iron pipe; THENCE North 05 degrees 34 minutes 51 seconds East for a distance of 67.46 feet to a new iron pipe; THENCE North 02 degrees 00 minutes 39 seconds East for a distance of 65.77 feet to a new iron pipe; THENCE North 00 degrees 26 minutes 49 seconds West for a distance of 120.61 feet to a new iron pipe; THENCE North 01 degrees 42 minutes 22 seconds West for a distance of 198.98 feet to a new iron pipe; THENCE North 01 degrees 20 minutes 23 seconds West for a distance of 103.27 feet to a new iron pipe; THENCE North 01 degrees 01 minutes 36 seconds East for a distance of 88.61 feet to a new iron rod in the centerline of Kiser Branch; Thence down the meanders of Kiser Branch 28 calls, 1-South 78 degrees 54 minutes 09 seconds West for a distance of 12.95 feet to a point in the centerline of said branch; 2-South 50 degrees 17 minutes 09 seconds West for a distance of 87.86 feet to a point in the centerline of said branch; 3-South 20 degrees 38 minutes 05 seconds West for a distance of 44.12 feet to a point in the centerline of said branch; 4-South 60 degrees 31 minutes 48 seconds West for a distance of 94.09 feet to a point in the centerline of said branch; 5-South 88 degrees 03 minutes 27 seconds West for a distance of 22.80 feet to a point in the centerline of said branch; 6-South 74 degrees 20 minutes 45 seconds West for a distance of 68.65 feet to a point in the centerline of said branch; 7-North 70 degrees 07 minutes 14 seconds West for a distance of 46.44 feet to a point in the centerline of said branch; 8-North 72 degrees 03 minutes 25 seconds West for a distance of 26.07 feet to a point in the centerline of said branch; 9-North 04 degrees 49 minutes 08 seconds East for a distance of 15.44 feet to a point in the centerline of said branch; 10-North 70 degrees 45 minutes 29 seconds West for a distance of 117.59 feet to a point in the centerline of said branch; 11-South 33 degrees 01 minutes 16 seconds West for a distance of 39.79 feet to a point in the centerline of said branch; 12-South 75 degrees 15 minutes 59 seconds West for a distance of 35.77 feet to a point in the centerline of said branch; 13-North 80 degrees 40 minutes 07 seconds West for a distance of 19.29 feet to a point in the centerline of said branch; 14-North 87 degrees 10 minutes 03 seconds West for a distance of 39.00 feet to a point in the centerline of said branch; 15-North 76 degrees 51 minutes 46 seconds West for a distance of 33.54 feet to a point in the centerline of said branch; 16-South 64 degrees 05 minutes 34 seconds West for a distance of 35.36 feet to a point in the centerline of said branch; 17-South 76 degrees 34 minutes 33 seconds West for a distance of 30.71 feet to

a point in the centerline of said branch; 18-North 86 degrees 12 minutes 14 seconds West for a distance of 99.25 feet to a point in the centerline of said branch; 19-North 74 degrees 08 minutes 12 seconds West for a distance of 57.02 feet to a point in the centerline of said branch; 20-North 44 degrees 18 minutes 34 seconds West for a distance of 43.84 feet to a point in the centerline of said branch; 21-North 80 degrees 01 minutes 13 seconds West for a distance of 18.46 feet to a point in the centerline of said branch; 22-South 71 degrees 33 minutes 40 seconds West for a distance of 50.91 feet to a point in the centerline of said branch; 23-South 87 degrees 35 minutes 57 seconds West for a distance of 54.32 feet to a point in the centerline of said branch; 24-North 37 degrees 32 minutes 51 seconds West for a distance of 103.04 feet to a point in the centerline of said branch; 25-North 57 degrees 20 minutes 33 seconds West for a distance of 27.98 feet to a point in the centerline of said branch; 26-South 83 degrees 15 minutes 14 seconds West for a distance of 43.25 feet to a point in the centerline of said branch; 27- North 70 degrees 24 minutes 43 seconds West for a distance of 84.23 feet to a point in the centerline of said branch; 28-North 84 degrees 06 minutes 58 seconds West for a distance of 41.82 feet to a point in the centerline of said branch; THENCE leaving said branch North 05 degrees 53 minutes 02 seconds East for a distance of 13.21 feet to an existing stone; THENCE North 62 degrees 23 minutes 47 seconds West for a distance of 465.73 feet to a pine stump on the east bank of Rocky River; THENCE along the east bank of said river 2 calls 1-North 06 degrees 42 minutes 18 seconds East for a distance of 104.41 feet to a point; 2-North 11 degrees 57 minutes 42 seconds West for a distance of 94.12 feet to a new iron pipe on the east bank of said river; THENCE North 88 degrees 36 minutes 29 seconds East for a distance of 879.48 feet to an existing nail by an existing iron rod; THENCE North 01 degrees 14 minutes 37 seconds East for a distance of 264.61 feet to an existing iron rod; THENCE South 86 degrees 00 minutes 01 seconds East for a distance of 917.32 feet to an existing iron rod in the centerline of the pavement of Pine Bluff Road; THENCE South 82 degrees 55 minutes 25 seconds East for a distance of 1481.75 feet to an existing iron rod; THENCE South 85 degrees 11 minutes 41 seconds East for a distance of 892.62 feet to an existing iron rod by an existing stone; THENCE South 28 degrees 09 minutes 12 seconds West for a distance of 428.64 feet to an existing iron rod; THENCE North 86 degrees 36 minutes 20 seconds West for a distance of 1295.60 feet to an existing iron rod; THENCE North 16 degrees 53 minutes 58 seconds East for a distance of 219.86 feet to a new iron pipe; THENCE North 86 degrees 36 minutes 43 seconds West for a distance of 407.35 feet to an existing bolt; THENCE South 16 degrees 53 minutes 58 seconds West for a distance of 219.86 feet to a new iron pipe; THENCE North 86 degrees 36 minutes 43 seconds West for a distance of 144.49 feet to an existing concrete monument; THENCE South 00 degrees 10 minutes 18 seconds East for a distance of 54.72 feet to an existing iron rod; THENCE South 77 degrees 49 minutes 55 seconds West for a distance of 363.97 feet to an existing PK nail in the centerline of the pavement of Pine Bluff Road and Kiser Branch; THENCE with the centerline of the pavement of Pine Bluff Road 4 calls, 1-South 01 degrees 03 minutes 13 seconds West for a distance of 100.35 feet to an existing railroad spike; 2-South 01 degrees 21 minutes 25 seconds East for a distance of 100.02 feet to an existing railroad spike; 3-South 01 degrees 42 minutes 14 seconds East for a distance of 200.02 feet to an existing railroad spike; 4-South 00 degrees 26 minutes 10 seconds East for a distance of 124.86 feet to an existing railroad spike in the centerline of said pavement; THENCE South 73 degrees 51 minutes 39 seconds East for a distance of 835.54 feet to an existing iron rod; THENCE South 51 degrees 55 minutes 29 seconds East for a distance of 1076.98 feet to a new iron pipe; THENCE South 51

degrees 10 minutes 02 seconds West for a distance of 954.58 feet to an existing flat iron; THENCE North 68 degrees 34 minutes 02 seconds West for a distance of 979.39 feet to a new iron pipe; THENCE North 73 degrees 59 minutes 42 seconds West for a distance of 189.55 feet to an existing iron rod; THENCE North 75 degrees 57 minutes 07 seconds West for a distance of 18.58 feet to an existing railroad spike in the centerline of Pine Bluff Road the **POINT OF BEGINNING**.

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

In the General Assembly read three times and ratified this the 6th day of July, 2004.

Became law on the date it was ratified.

H.B. 1385

Session Law 2004-57

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR VARIOUS MUNICIPALITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

"(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, Gastonia, Locust, Mount Holly, Newton, Randleman, Sanford, Salisbury, ~~and Southport~~, and Washington and the Towns of Bladenboro, Catawba, Creswell, Fuquay-Varina, Garner, Holly Ridge, Holly Springs, Knightdale, Leland, Maiden, Mayodan, Midland, Morrisville, Pine Level, Ranlo, Rolesville, Swansboro, ~~and Warsaw~~, Wallace, Warsaw, Wendell, and Zebulon."

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

In the General Assembly read three times and ratified this the 6th day of July, 2004.

Became law on the date it was ratified.

H.B. 1462

Session Law 2004-58

AN ACT TO AUTHORIZE THE TOWN OF SEVEN DEVILS TO ADOPT ORDINANCES REGULATING GOLF CARTS AND UTILITY VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2003-124 reads as rewritten:

"**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Town of Beech Mountain ~~and the Town of Seven Devils~~ 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 7th day of July, 2004.

Became law on the date it was ratified.

H.B. 1589**Session Law 2004-59**

AN ACT CODIFYING THE METHOD OF ELECTING THE MONTGOMERY COUNTY BOARD OF COMMISSIONERS AS ORDERED BY THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. The Montgomery County Board of Commissioners shall be elected according to the method established by the United States District Court for the Middle District of North Carolina in the Consent Decree entered on January 23, 1990, and the Supplemental Order entered on July 2, 2003, in Montgomery County Branch of the NAACP, et al., v. Montgomery County, et al. C-90-27-R, as now codified in this act. This act is intended to satisfy the requirement of paragraph 13 of the Supplemental Order that the Board of Commissioners seek codification of the election method.

SECTION 2. The Board of Commissioners shall consist of five members, elected in partisan elections at the time provided by State law.

SECTION 3. One commissioner each shall be elected from Districts 1, 2, and 3 by the voters of that district only, and two commissioners shall be elected from the county at large.

SECTION 4. Districts 1, 2, and 3 shall be comprised of the areas shown on the map entitled "3-District Plan H" attached to the July 2, 2003, Supplemental Order and on file with the Montgomery County Board of Commissioners and Board of Elections.

SECTION 5. To be eligible to be a candidate for or to serve as a commissioner from District 1, 2, or 3 a person must reside in that district. Candidates for, and persons serving as, at-large commissioners may reside anywhere in the county.

SECTION 6. As provided in July 2, 2003, Supplemental Order, William Maness currently is serving as the commissioner for District 1, Sally Morris as the commissioner for District 2, George Knight as the commissioner for District 3, and Dolon Corbett and R.C. Bostic as the at-large commissioners.

SECTION 7. In the 2004 election, commissioners shall be elected from Districts 1 and 2 to serve four-year terms.

SECTION 8. In the 2006 election, a commissioner shall be elected from District 3 to serve a two-year term.

SECTION 9. Two at-large commissioners shall be elected in 2006 to serve four-year terms. In both the party primaries and the general election, all candidates for the two seats shall be listed together on the ballot and each voter shall be entitled to vote for up to two candidates.

SECTION 10. Subsequent elections for Districts 1, 2, and 3 shall be held in 2008 and every four years thereafter. Subsequent elections for the two at-large positions shall be held in 2010 and every four years thereafter.

SECTION 11. Notwithstanding G.S. 163-111, nominations in primary elections for the county board of commissioners shall be determined as follows:

- (1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared the nominee.
- (2) When more persons are seeking nomination to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared the nominee.
- (3) If two or more candidates receiving the highest number of votes necessary to be nominated each receive the same number of votes, the proper party executive committee shall, from among those candidates receiving the same number of votes, select the party nominee in accordance with G.S. 163-114.

SECTION 12. The three election districts may be redrawn as required by federal and State law following each decennial federal census.

SECTION 13. Except as provided in this act, elections for the Board of Commissioners shall be conducted according to general State law.

SECTION 14. The July 2, 2003, Supplemental Order provides that Montgomery County Branch of the NAACP, et al., v. Montgomery County, et al., shall be dismissed on July 2, 2008, if no additional motions have been filed by that time and no party has sought to reopen the case. Accordingly, after July 2, 2008, unless a subsequent order has been entered by the court, the method of electing the Board of Commissioners shall be as described in this act but may be subsequently altered pursuant to general State law and in compliance with the federal Voting Rights Act.

SECTION 15. Section 11 of this act becomes effective January 1, 2006. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law on the date it was ratified.

H.B. 1613

Session Law 2004-60

AN ACT TO AMEND THE LAW IN CHOWAN COUNTY REGULATING HUNTING ON PRIVATE LAND, TO REGULATE THE DISCHARGE OF A CENTER-FIRE RIFLE IN CHOWAN COUNTY, AND TO ADD CHOWAN AND ANSON COUNTIES TO THOSE COUNTIES IN WHICH IT IS UNLAWFUL TO REMOVE OR DESTROY ELECTRONIC COLLARS ON DOGS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 868 of the 1986 Session Laws reads as rewritten:

"Sec. 2. It is unlawful to hunt with or possess any center-fire rifle on the land of another or to discharge any center-fire rifle on, over, or across the land of another unless the hunter has, on his person, the written permission of the owner or lessee of the land. The written permission shall be dated and may be valid for no more than one year.

~~This section shall not be interpreted to prohibit the mere transportation in or on a motor vehicle on the lands of another of an unloaded center fire rifle."~~

SECTION 2.(a) It is unlawful to hunt with a center-fire rifle unless the barrel of the rifle is at least eight feet above ground level.

SECTION 2.(b) Violation of this section is punishable as a Class 3 misdemeanor.

SECTION 2.(c) This section 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 3. G.S. 14-401.17 reads as rewritten:

"§ 14-401.17. Unlawful removal or destruction of electronic dog collars.

(a) It is unlawful to intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.

(b) A first conviction for a violation of this section is a Class 3 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 2 misdemeanor.

(c) This act is enforceable by officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

(d) This act applies only to Alamance, Anson, Avery, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Camden, Caswell, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Davidson, Graham, Haywood, Henderson, Hyde, Jackson, Macon, Madison, McDowell, Mecklenburg, Mitchell, New Hanover, Orange, Pasquotank, Pitt, Robeson, Rockingham, Swain, Transylvania, Union, Wilkes, and Yancey Counties."

SECTION 4. Sections 1 and 2 of this act apply only to Chowan County.

SECTION 5. Sections 2 and 3 of this act become effective October 1, 2004, and apply 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 7th day of July, 2004.

Became law on the date it was ratified.

H.B. 1614

Session Law 2004-61

AN ACT TO PROVIDE THAT THE LENOIR COUNTY ABC BOARD MAY MAKE ANNUAL RATHER THAN QUARTERLY DISTRIBUTIONS OF THE PROCEEDS FROM THE ABC SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-805(c) reads as rewritten:

"(c) Other Statutory Distributions. – After making the distributions required by subsection (b), a local board shall make the following ~~quarterly~~ distributions from the remaining gross ~~receipts~~: receipts on June 30 of each year:

- (1) Before making any other distribution under this subsection, the local board shall set aside the clear proceeds of the three and one-half percent (3 1/2%) markup provided for in G.S. 18B-804(b)(5) and the bottle charge provided for in G.S. 18B-804(b)(6b), to be distributed as part of the remaining gross receipts under subsection (e) of this section.
- (2) The local board shall spend for law enforcement an amount set by the board which shall be at least five percent (5%) of the gross receipts remaining after the distribution required by subdivision (1). The local board may contract with the ALE Division to provide the law

enforcement required by this subdivision. Notwithstanding the provisions of any local act, this provision shall apply to all local boards.

- (3) The local board shall spend, or pay to the county commissioners to spend, for the purposes stated in subsection (h), an amount set by the board which shall be at least seven percent (7%) of the gross receipts remaining after the distribution required by subdivision (1). This provision shall not be applicable to a local board which is subject to a local act setting a different distribution."

SECTION 2. G.S. 18B-805(e) reads as rewritten:

"(e) Other Distributions. – After making the distributions provided in subsections (b), (c), and (d), the local board shall pay ~~each quarter~~ annually, on June 30, the remaining gross receipts to the general fund of the city or county for which the board is established, unless some other distribution or some other schedule is provided for by law. If the governing body of each city and county receiving revenue from an ABC system agrees, those governing bodies may alter at any time the distribution to be made under this subsection or under any local act. Copies of the governing body resolutions agreeing to a new distribution formula and a copy of the approved new distribution formula shall be submitted to the Commission for review and audit purposes. If any one of the governing bodies later withdraws its consent to the change in distribution, profits shall be distributed according to the original formula, beginning with the next ~~quarter-year~~."

SECTION 3. G.S. 18B-805(g) reads as rewritten:

"(g) ~~Quarterly~~ Annual Distributions. – When this section requires a distribution to be made ~~quarterly~~, annually, at least ninety percent (90%) of the estimated distribution shall be paid to the recipient by the local board within 30 days of the end of that ~~quarter-year~~. Adjustments in the amount to be distributed resulting from the closing of the books and from audit shall be made with the next ~~quarterly~~ annual payment."

SECTION 4. This act applies to Lenoir County and to the Lenoir County Alcoholic Beverage Control Board only.

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

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law on the date it was ratified.

H.B. 1659

Session Law 2004-62

AN ACT TO AMEND THE LAW REGULATING THE USE OF HUNTING STANDS IN PERQUIMANS COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2001-330 reads as rewritten:

"**SECTION 2.** It is unlawful to hunt with a center-fired rifle except from a stand at least ~~eight~~ five feet above ground level."

SECTION 2. This act applies only to Perquimans County.

SECTION 3. This act becomes effective October 1, 2004.

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law on the date it was ratified.

H.B. 1662**Session Law 2004-63**

AN ACT TO PROHIBIT THE DISCHARGE OF A FIREARM FROM THE RIGHT-OF-WAY OF PUBLIC ROADS IN CHEROKEE AND CLAY COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to take or kill any wild animal or wild bird with the use of a firearm or to discharge a firearm from, on, or across the right-of-way of a public road, street, highway, or other public vehicular area in Clay and Cherokee Counties.

SECTION 2. Violation of this act is a Class 3 misdemeanor.

SECTION 3. 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 4. This act applies only to Cherokee and Clay Counties.

SECTION 5. This act becomes effective October 1, 2004, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law on the date it was ratified.

H.B. 1674**Session Law 2004-64**

AN ACT CONCERNING FILLING OF VACANCIES IN THE BOARD OF COMMISSIONERS OF THE TOWN OF ZEBULON.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.3 of the Charter of the Town of Zebulon, being Chapter 386 of the 1973 Session Laws, as rewritten by the Town under G.S. 160A-101 and G.S. 160A-102, reads as rewritten:

"Sec. 3.3. Members of the Town Board of Commissioners shall hereafter be elected for four-year terms on a staggered basis as follows: at the regular municipal election to be held in 1977, the two candidates who receive the highest number of votes shall be elected for four-year terms, while the three candidates who receive the next highest number of votes shall be elected for two-year terms. Beginning at the regular municipal election to be held in 1979, and every four years thereafter, three members of the Board of Commissioners shall be elected to serve for four-year terms. Beginning at the regular municipal election to be held in 1979, and every four years thereafter, two members of the Board of Commissioners shall be elected to serve for four-year terms. Beginning at the regular municipal election to be held in 1981 and every four years thereafter the Mayor of the Town of Zebulon shall be elected for a four-year term.

In the event a vacancy occurs in the office of commissioner, the board shall, by a plurality vote, appoint a qualified person to fill the vacancy until the next general election. The person appointed to fill the vacancy shall serve only until an elected successor takes office. From the votes cast at the election, the seats shall be filled as follows: the full-term seats that would normally be up for election shall be filled first based on the highest numbers of votes equal to the number of seats to be filled for full

terms, and the unexpired term(s) shall be filled based on the next highest number of votes."

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

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law on the date it was ratified.

S.B. 1093**Session Law 2004-65**

AN ACT TO ADD EDGECOMBE, HALIFAX, LENOIR, NASH, PENDER, AND WILSON COUNTIES TO THOSE COUNTIES AUTHORIZED TO USE A TAX CERTIFICATION PROCESS TO ASSIST IN THE COLLECTION OF DELINQUENT PROPERTY TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-31 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, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Lee, Lenoir, Macon, Madison, Martin, Montgomery, Nash, Northampton, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Rockingham, Rowan, Rutherford, Stanly, Swain, Transylvania, Vance, Warren, Washington, 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 8th day of July, 2004.

Became law on the date it was ratified.

H.B. 1349**Session Law 2004-66**

AN ACT TO ESTABLISH SEASONS FOR HUNTING AND TRAPPING FOXES IN COLUMBUS COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of Chapter 208 of the 1993 Session Laws reads as rewritten:

"Sec. 5. Notwithstanding any other provision of law, there is an open season for taking foxes with weapons in Brunswick County and Columbus County from December 1 through January 1 of each year."

SECTION 2. Section 6 of Chapter 208 of the 1993 Session Laws reads as rewritten:

"Sec. 6. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping in Brunswick County and Columbus County from January 2 through January 31 of each year. During this season, all leghold traps set on dry land with solid anchor shall have at least three swivels in the trap chain and no leghold traps larger than size one and one-half may be used."

SECTION 3. Section 9 of Chapter 208 of the 1993 Session Laws reads as rewritten:

"Sec. 9. Sections 1 through 3 of this act apply only to Granville and Franklin Counties. Sections 4 through 8 of this act apply only to Brunswick County. and Columbus Counties."

SECTION 4. This act becomes effective October 1, 2004.

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law on the date it was ratified.

H.B. 1509

Session Law 2004-67

AN ACT TO PROVIDE THAT CABARRUS MEMORIAL HOSPITAL MAY AWARD ADVANCED DEGREES TO GRADUATES OF ITS NURSING AND ALLIED HEALTH SCIENCES PROGRAMS AS APPROPRIATE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of Chapter 307, Public-Local Laws of 1935, as amended by Chapter 947 of the 1987 Session Laws and by S.L. 1998-204, reads as rewritten:

"Sec. 11. Notwithstanding G.S. 116-15, the Executive Committee of Cabarrus Memorial Hospital may establish and maintain in connection with and as a part of the hospital an educational program for nursing and allied health sciences. The Executive Committee may award an ~~Associate Degree or Associate, Baccalaureate Degree~~ Baccalaureate, and advanced degrees to graduates of the nursing education or allied health sciences programs as appropriate."

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

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law on the date it was ratified.

H.B. 1529

Session Law 2004-68

AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO PERMIT THE USE OF PUBLIC SCHOOL ACTIVITY BUSES TO SERVE THE TRANSPORTATION NEEDS OF THE U. S. OPEN GOLF TOURNAMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 66-58 or any other provision of law, the Moore County Board of Education may enter into a contract, under terms and conditions set by the Moore County Board of Education, that permits public school activity buses to be used from June 12, 2005, through June 20, 2005, for activities related to the U.S. Open Golf Tournament to be held in Moore County.

State funds shall not be used for the use and operation of buses under this act.

Neither the State of North Carolina nor the Moore County Schools shall incur any liability for any damages resulting from the use and operation of buses under this act. Pinehurst, Inc., shall carry liability insurance covering the use and operation of buses under this act.

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

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law on the date it was ratified.

H.B. 1669

Session Law 2004-69

AN ACT AUTHORIZING THE CLINTON CITY BOARD OF EDUCATION TO CONVEY CERTAIN DESCRIBED PROPERTY BY PRIVATE SALE TO THE SAMPSON HIGH SCHOOL ALUMNI ASSOCIATION, INC.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the Clinton City Board of Education may convey by private negotiation and sale to the Sampson High School Alumni Association, Incorporated, a nonprofit corporation, with or without monetary consideration, and upon such terms as the Clinton City Board of Education deems appropriate, any or all of its right, title, and interest in the following described property:

A lot containing .81 acres more or less and a one story brick and block building located on Mckoy Street in the City of Clinton, North Clinton Township, North Carolina, being adjacent to and adjoining a tract of land purchased by the Sampson High School Alumni Association in Deed Book 1045 page 247 on the north side and adjacent to and adjoining property owned by Olivet Institutional Baptist Church, in Deed Book 1119 Page 819 on the south side. The said .81 acre tract being all of lot one (1) of land surveyed by Millard T. Owen, III, and recorded in Map Book 35 Page 79 of the Sampson County Registry.

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

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law on the date it was ratified.

H.B. 1726

Session Law 2004-70

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO 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. Section 2 of S.L. 2003-76, as amended by S.L. 2003-320, reads as rewritten:

"**SECTION 2.** This act applies only to the Cities of ~~Greensboro and Roanoke Rapids~~. Greensboro, Roanoke Rapids, and Winston-Salem."

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

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law on the date it was ratified.

H.B. 1728

Session Law 2004-71

AN ACT TO AUTHORIZE THE LAKE ROYALE POLICE DEPARTMENT TO ENFORCE THE LAW ON THE WATERS OF LAKE ROYALE AND TO COMPETE FOR GRANTS FOR THE PURCHASE OF LAW ENFORCEMENT EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) In addition to the powers granted to it by G.S. 74E-6(c), the Lake Royale Police Department has the powers granted by that subsection on all of the waters of Lake Royale and its shoreline area.

SECTION 1.(b) In performing duties relating to the enforcement of the laws on the waters of Lake Royale or in its shoreline area, an officer of the Lake Royale Police Department 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, and include:

- (1) Traversing by reasonable routes from one portion of this area to another, including across territory not within the boundaries of the waters of Lake Royale and its shoreline area;
- (2) 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; and
- (3) Continuing pursuit of and arresting any violator or suspected violator when the grounds for arrest arose within the area in question, except that this pursuit may not be conducted by virtue of this act beyond the boundaries of Franklin and Nash Counties.

SECTION 2. The Lake Royale Police Department may participate in the process for the awarding of any grants for the purchase of law enforcement equipment for which the Department is eligible under the rules of the grant.

SECTION 3. In consideration of the public service provided, a company police agency that is certified pursuant to Chapter 74E of the General Statutes and that has been given expanded jurisdiction and authority spanning at least two counties, may purchase gas, oil, and tires for their official vehicles and any other materials and supplies under State contract through the Department of Administration, and may purchase surplus property through the Department of Administration on the same basis as counties and municipalities.

The Department of Administration shall make its services available to a company police agency meeting the above qualifications in the purchase of such supplies as provided in G.S. 143-49(6) and any rules adopted pursuant to that section.

SECTION 4. This act applies only to the Lake Royale Police Department serving the Lake Royale community in Franklin and Nash Counties.

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

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law on the date it was ratified.

H.B. 257

Session Law 2004-72

AN ACT TO PROHIBIT THE USE OF CITIZENS BAND RADIO EQUIPMENT NOT AUTHORIZED BY THE FEDERAL COMMUNICATIONS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 15 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-328. Unauthorized use of Citizens Band equipment.

(a) As used in this section, 'Citizens Band radio equipment' means Citizens Band radio equipment authorized by the Federal Communications Commission.

(b) It shall be unlawful for any person willfully and knowingly to use Citizens Band radio equipment not authorized by the Federal Communications Commission. Unauthorized Citizens Band radio equipment includes the use of power amplifiers or equipment prohibited under applicable federal regulations.

(c) This section does not apply to any licensee that is exempted under the provisions of 47 U.S.C. § 302a(f)(2).

(d) Any person willfully and knowingly violating the provisions of this section shall be guilty of a Class 3 misdemeanor."

SECTION 2. This act becomes effective December 1, 2004, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law upon approval of the Governor at 4:06 p.m. on the 8th day of July, 2004.

H.B. 1456

Session Law 2004-73

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE HOUSE INTERIM COMMITTEE ON PROVIDING AN APPROPRIATE EDUCATION FOR STUDENTS ON LONG-TERM SUSPENSION TO DIRECT THE STATE BOARD OF EDUCATION TO DETERMINE A SPECIFIED PERCENTAGE OF AT-RISK FUNDS FOR SERVICES TO STUDENTS WHO ARE SUSPENDED FROM SCHOOL FOR MORE THAN TEN DAYS.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall recommend a specified percentage of the Alternative Schools/At-Risk Student allotment to be designated for services to be provided to students who have been suspended from school for more than 10 days. The State Board of Education shall report its recommendation to the Joint Legislative Education Oversight Committee by December 15, 2004.

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

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law upon approval of the Governor at 4:07 p.m. on the 8th day of July, 2004.

S.B. 51

Session Law 2004-74

AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES AND TO REMOVE PROVISIONS THAT COULD RESULT IN FRANCHISE TAXES ON ASSETS NOT INDIRECTLY OWNED BY CORPORATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-114.1 reads as rewritten:

"§ 105-114.1. Limited liability companies.

(a) Definitions. – ~~The definitions in G.S. 105-130.7A apply in this section. In addition, the following definitions apply in this section:~~

- (1) Affiliated group. – Defined in section 1504 of the Code.
- (2) Capital interest. – The right under a limited liability company's governing law to receive a percentage of the company's assets upon dissolution after payments to creditors.
- (3) Entity. – A person that is not a human being.
- (4) Governing law. – A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.
- ~~(2) Owned indirectly. – A person owns indirectly assets of a limited liability company if the limited liability company's governing law provides that seventy percent (70%) or more of its assets, after payments to creditors, must be distributed upon dissolution to the person as of the last day of the principal corporation's taxable year.~~
- ~~(3) Principal corporation. – A corporation that is a member of a limited liability company or has a related member that is a member of a limited liability company.~~

(b) Controlled Companies. – If a corporation or an affiliated group of corporations owns seventy percent (70%) or more of the capital interests in a limited liability company, the corporation or group of corporations must include in its three tax bases under this Article the same percentage of the limited liability company's net assets. a related member of the corporation is a member of a limited liability company and the principal corporation and any related members of the principal corporation together own indirectly seventy percent (70%) or more of the limited liability company's assets, then the following provisions apply:

- ~~(1) A percentage of the limited liability company's income, assets, liabilities, and equity is attributed to that principal corporation and must be included in the principal corporation's computation of tax under this Article.~~
- ~~(2) The principal corporation's investment in the limited liability company is not included in the principal corporation's computation of tax under this Article.~~

- (3) ~~The attributable percentage is equal to the percentage of the limited liability company's assets owned indirectly by the principal corporation divided by the percentage of the limited liability company's assets owned indirectly by related members of the principal corporation that are corporations.~~

(c) Constructive Ownership. – Ownership of the capital interests in a limited liability company is determined by reference to the constructive ownership rules for partnerships, estates, and trusts in section 318(a)(2)(A) and (B) of the Code with the following modifications:

- (1) The term 'capital interest' is substituted for 'stock' each place it appears.
- (2) A limited liability company and any noncorporate entity other than a partnership, estate, or trust is treated as a partnership.
- (3) The operating rule of section 318(a)(5) of the Code applies without regard to section 318(a)(5)(C).

~~Other Companies.~~ – ~~In all other cases, none of the limited liability company's income, assets, liabilities, or equity is attributed to a principal corporation under this Article.~~

(d) No Double Inclusion. – If a corporation is required to include a percentage of a limited liability company's assets in its tax bases under this Article pursuant to subsection (b) of this section, its investment in the limited liability company is not included in its computation of capital stock base under G.S. 105-122(b).

(e) Affiliated Group. – If the owner of the capital interests in a limited liability company is an affiliated group of corporations, the percentage to be included pursuant to subsection (b) of this section by each group member that is doing business in this State is determined by multiplying the capital interests in the limited liability company owned by the affiliated group by a fraction. The numerator of the fraction is the capital interests in the limited liability company owned by the group member, and the denominator of the fraction is the capital interests in the limited liability company owned by all group members that are doing business in this State.

(f) Exemption. – This section does not apply to assets owned by a limited liability company if the total book value of the limited liability company's assets never exceeded one hundred fifty thousand dollars (\$150,000) during its taxable year.

(g) Timing. – Ownership of the capital interests in a limited liability company is determined as of the last day of its taxable year. The adjustments pursuant to subsections (b) and (d) of this section must be made to the owner's next following return filed under this Article. If a limited liability company and a corporation or an affiliated group of corporations have engaged in a pattern of transferring assets between them with the result that each did not own the capital interests on the last day of its taxable year, the ownership of the capital interests in the limited liability company must be determined as of the last day of the corporation or group of corporations' taxable year.

(h) Penalty. – A taxpayer who, because of fraud with intent to evade tax, underpays the tax under this Article on assets attributable to it under this section is guilty of a Class H felony in accordance with G.S. 105-236(7)."

SECTION 2. G.S. 105-114.1(b), as amended by this act, reads as rewritten:

"(b) Controlled Companies. – If a corporation or an affiliated group of corporations owns seventy percent (70%) or more than fifty percent (50%) of the capital interests in a limited liability company, the corporation or group of corporations

must include in its three tax bases under this Article the same percentage of the limited liability company's net assets."

SECTION 3. Section 1 of this act becomes effective January 1, 2003, and applies to taxes due on or after that date. Section 2 of this act becomes effective January 1, 2005, and applies to taxes due 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 28th day of June, 2004.

Became law upon approval of the Governor at 4:07 p.m. on the 8th day of July, 2004.

S.B. 1161**Session Law 2004-75**

AN ACT TO REQUIRE COUNTIES AND CITIES NEAR MILITARY BASES TO GIVE NOTICE OF LAND-USE PLANNING CHANGES TO THE MILITARY BASES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-323 reads as rewritten:

"§ 153A-323. Procedure for adopting or amending ordinances under this Article and Chapter 160A, Article 19.

(a) Before adopting or amending any ordinance authorized by this Article or Chapter 160A, Article 19, the board of commissioners shall hold a public hearing on the ordinance or amendment. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. 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. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) If the adoption or modification of the ordinance would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the board of commissioners shall provide written notice of the proposed changes by certified mail, return receipt requested, to the commander of the military base not less than 10 days nor more than 25 days before the date fixed for the public hearing. If the military provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the board of commissioners shall take the comments and analysis into consideration before making a final determination on the ordinance."

SECTION 2. G.S. 160A-364 reads as rewritten:

"§ 160A-364. Procedure for adopting or amending ordinances under Article.

(a) Before adopting or amending any ordinance authorized by this Article, the city council shall hold a public hearing on it. A notice of the public 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. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) If the adoption or modification of the ordinance would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the governing body of the local government shall provide written notice of the proposed changes by certified mail,

return receipt requested, to the commander of the military base not less than 10 days nor more than 25 days before the date fixed for the public hearing. If the military provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the governing body of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance."

SECTION 3. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law upon approval of the Governor at 4:09 p.m. on the 8th day of July, 2004.

H.B. 1455

Session Law 2004-76

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE HOUSE INTERIM COMMITTEE ON PROVIDING AN APPROPRIATE EDUCATION FOR STUDENTS ON LONG-TERM SUSPENSION TO DIRECT THE STATE BOARD OF EDUCATION TO DEVELOP AND RECOMMEND A FUNDING FORMULA FOR ALTERNATIVE LEARNING PROGRAMS AND ALTERNATIVE SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall develop and recommend a formula for allotting funds to alternative learning programs and alternative schools based on the number of students (i) suspended from school for more than 10 days or expelled from school and (ii) assigned to an alternative learning program or alternative school. The Board should consider as a basis for this formula existing funding formulas used for children with disabilities, academically or intellectually gifted children, and students with limited English proficiency. The State Board of Education shall recommend this formula to the Joint Legislative Education Oversight Committee by December 15, 2004.

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

In the General Assembly read three times and ratified this the 28th day of June, 2004.

Became law upon approval of the Governor at 4:09 p.m. on the 8th day of July, 2004.

H.B. 1555

Session Law 2004-77

AN ACT TO PROVIDE AN ADDITIONAL FEE TO BE PAID TO COMMISSION CONTRACT AGENTS FOR TRANSACTIONS RELATED TO MOTOR VEHICLE TITLES AND TO REQUIRE THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY CUSTOMER SERVICE PROVIDED BY THE DIVISION OF MOTOR VEHICLES AND THE COMMISSION CONTRACT AGENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63 is amended by adding a new subsection to read:

"(h1) Commission contracts entered into by the Division under this subsection shall also provide for the payment of an additional one dollar (\$1.00) of compensation to commission contract agents for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of G.S. 20-85."

SECTION 2. G.S. 20-85 is amended by adding a new subsection to read:

"(a1) An additional one dollar (\$1.00) fee shall be imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section. The fees collected pursuant to this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents."

SECTION 3. The Joint Legislative Transportation Oversight Committee shall study the issue of customer service at Division of Motor Vehicle license offices, registration offices, and the services provided by commission contract agents. The study shall include the procedures and policies implemented by the Division and how they impact on providing customer-friendly services in all interactions with citizens of North Carolina. The Committee shall also investigate whether staffing requirements for Division license offices are adequate to provide a high level of customer-friendly service to the public and whether those positions are consistently filled. In conducting the study the Committee shall seek input from representatives from the Division, contract agents, and the motoring public. The Committee shall report to the General Assembly on the results of the study on the first day of the 2005 Regular Session.

SECTION 4. This act is effective when it becomes law. Sections 1 and 2 of this act become effective October 1, 2004, and apply to fees assessed on or after that date.

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law upon approval of the Governor at 4:10 p.m. on the 8th day of July, 2004.

H.B. 354

Session Law 2004-78

AN ACT TO AMEND THE STATE DISABILITY INCOME PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-101(6) reads as rewritten:

"(6) "Disability" or "Disabled" shall mean the ~~physical or cognitive limitations that prevent working as determined by the Department of State Treasurer and the Board of Trustees;~~ mental or physical incapacity for the further performance of duty of a participant or beneficiary; 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 2. G.S. 135-105(a) reads as rewritten:

"(a) Any participant who becomes disabled and is ~~unable to perform the duties of the participant's job or any other available jobs with the State~~ no longer able to perform his usual occupation 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 ~~cannot perform the duties of the participant's job or any other jobs available with the State,~~ is mentally or physically incapacitated for the further performance of duty, 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 3. 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 ~~unable to perform any occupation for which the beneficiary or participant is reasonably qualified for by training or experience,~~ mentally or physically incapacitated for the further performance of duty, 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 ~~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 mentally or physically incapacitated for the further performance of duty, the Medical Board shall so certify this finding to the Board of Trustees, 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 4. Effective August 1, 2005, G.S. 135-106(a), as rewritten by Section 3 of this act, 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 or employment commensurate to the beneficiary's or participant's education, training, or experience, which is available in the same commuting area for State employees or within the same local school administrative unit for school personnel, without an adverse impact on the beneficiary's or participant's career status, and in which the beneficiary or participant can be expected to earn not less than sixty-five percent (65%) of that beneficiary's or participant's predisability earnings,~~ 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 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 5. Section 30.20(b) of S.L. 2003-284 reads as rewritten:

"**SECTION 30.20.(b)** The Commission shall be comprised of ~~seven~~ 13 members as follows:

- (1) ~~Two~~ Four persons appointed by the President Pro Tempore of the Senate. ~~One of these appointees shall be a State employee. Senate, one of whom shall be familiar with disability issues relating to State employees, one of whom shall be familiar with disability issues relating to school employees, and one of whom shall be familiar with workers' compensation issues relating to State employees or school employees.~~
- (2) ~~Two~~ Four persons appointed by the Speaker of the House of Representatives. ~~One of these appointees shall be a State employee. Representatives, one of whom shall be familiar with disability issues relating to State employees, one of whom shall be familiar with disability issues relating to school employees, and one of whom shall be familiar with workers' compensation issues relating to State employees or school employees.~~
- (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. The Chair of the North Carolina Industrial Commission, or the Chair's designee.~~
- (6) One person appointed by the President of The University of North Carolina who is familiar with disability issues relating to university employees.

- (7) One person appointed by the President of the North Carolina Community Colleges System who is familiar with disability issues relating to community college employees.

Any vacancy shall be filled by the officer who made the original appointment."

SECTION 6. Sections 1 through 3 are effective retroactively from and after July 1, 2003. Section 4 of this act becomes effective August 1, 2005, and applies only to persons who are not vested in the disability plan in question on that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law upon approval of the Governor at 4:11 p.m. on the 8th day of July, 2004.

H.B. 26

Session Law 2004-79

AN ACT TO CLARIFY THAT DEVICES DESIGNED TO COVER REGISTRATION PLATES TO PREVENT THE TAKING OF A CLEAR PHOTOGRAPH BY TRAFFIC CONTROL SYSTEMS USING CAMERAS ARE UNLAWFUL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(g) reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. – Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, shall be guilty of a Class 2 misdemeanor. Any operator of a motor vehicle who shall willfully cover or cause to be covered any part or portion of a registration plate or the figures or letters thereon by any device designed or intended to prevent or interfere with the taking of a clear photograph of a registration plate by a traffic control system using cameras commits an infraction and shall be fined under G.S. 14-3.1. Any operator of a motor vehicle who shall otherwise intentionally cover any number or registration renewal sticker on a registration plate with any material that makes the number or registration renewal sticker illegible commits an infraction and shall be fined under G.S. 14-3.1. Nothing in this subsection shall prohibit the use of transparent covers that are not designed or intended to prevent or interfere with the taking of a clear photograph of a registration plate by a traffic control system using cameras."

SECTION 2. This act becomes effective October 1, 2004, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 29th day of June, 2004.

Became law upon approval of the Governor at 4:11 p.m. on the 8th day of July, 2004.

AN ACT TO IMPROVE PUBLIC HEALTH PREPAREDNESS AND RESPONSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-2(3a) reads as rewritten:

"(3a) 'Isolation authority' means the authority to issue an order to limit the freedom of movement or action of ~~a person or animal~~ persons or animals that are infected or reasonably suspected to be infected with a communicable disease or communicable condition for the period of communicability to prevent the direct or indirect conveyance of the infectious agent from the person or animal to other persons or animals who are susceptible or who may spread the agent to others."

SECTION 2. G.S. 130A-145(d) reads as rewritten:

"(d) When quarantine or isolation limits the freedom of movement of a person or animal or of access to a person or animal whose freedom of movement is limited, the period of limited freedom of movement or access shall not exceed ~~10~~ 30 calendar days. Any person substantially affected by that limitation may institute in superior court in Wake County or in the county in which the limitation is imposed an action to review that limitation. The official who exercises the quarantine or isolation authority shall give the persons known by the official to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of that request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce or terminate the limitation ~~if~~ unless it determines, by the preponderance of the evidence, that the limitation is ~~not~~ not reasonably necessary to prevent or limit the conveyance of a communicable disease or condition to others.

If the State Health Director or the local health director determines that a ~~10-calendar-day~~ 30-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director or local health director must institute in superior court in the county in which the limitation is imposed an action to obtain an order extending the period of limitation of freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake ~~County~~ The County or as a counterclaim in the pending case. Except as provided below for persons with tuberculosis, the court shall continue the limitation for a period not to exceed 30 days if it determines, by the preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of a communicable disease or condition to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the quarantine or isolation is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that quarantine or isolation was not or is no longer needed for protection of the public health, the person quarantined or isolated may move the trial court to

reconsider its order extending quarantine or isolation before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order issued under this section, the State Health Director or local health director may move to continue the order for additional periods not to exceed 30 days each. If the person whose freedom of movement has been limited has tuberculosis, the court shall continue the limitation for a period not to exceed one calendar year if it determines, by a preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of tuberculosis to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the quarantine or isolation is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that quarantine or isolation was not or is no longer needed for protection of the public health, the person quarantined or isolated may move the trial court to reconsider its order extending quarantine or isolation before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order limiting the freedom of movement of a person with tuberculosis, the State Health Director or local health director may move to continue the order for additional periods not to exceed one calendar year each."

SECTION 3. G.S. 130A-475(b) reads as rewritten:

"(b) The authority under subsection (a) of this section shall be exercised only when and so long as a public health threat may exist, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists. Before applying the authority under subdivision (4) or (5) of subsection (a) of this section to livestock or poultry for the purpose of preventing the direct or indirect conveyance of a biological, chemical or nuclear agent to persons, the State Health Director shall consult with the State Veterinarian in the Department of Agriculture and Consumer Services.

The period of limited freedom of movement or access under subdivisions (4) and (5) of subsection (a) of this section shall not exceed ~~40~~30 calendar days. Any person substantially affected by that limitation may institute, in superior court in Wake County or in the county in which the limitation is imposed, an action to review the limitation. The State Health Director shall give the persons known by the State Health Director to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of the request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce or terminate the limitation ~~if~~unless it determines, by the preponderance of the evidence, that the limitation is ~~not~~ reasonably necessary to prevent or limit the conveyance of biological, chemical or nuclear agents to others, and may apply such conditions to the limitation as the court deems reasonable and necessary.

If the State Health Director determines that a ~~40-calendar-day~~30-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director must institute in superior court in the county in which the limitation is imposed, an action to obtain an order extending the period limiting the

freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake ~~County~~ County or as a counterclaim in the pending case. The court shall continue the limitation for a period not to exceed 30 days, subject to conditions it deems reasonable and necessary, if it determines by the preponderance of the evidence, that additional limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical, or nuclear agents to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the quarantine or isolation is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that quarantine or isolation was not or is no longer needed for protection of the public health, the person quarantined or isolated may move the trial court to reconsider its order extending quarantine or isolation before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order issued under this section, the State Health Director may move to continue the order for additional periods not to exceed 30 days each."

SECTION 4. G.S. 130A-12 reads as rewritten:

"§ 130A-12. Confidentiality of records.

All records containing privileged patient medical information or information protected under 45 C.F.R. Parts 160 and 164 that are in the possession of the Department or local health departments shall be confidential and shall not be public records pursuant to G.S. 132-1. Information contained in the records may be disclosed only when disclosure is authorized or required by State or federal law. Notwithstanding G.S. 8-53 or G.S. 130A-143, the information contained in the records may be disclosed for purposes of treatment, payment, or health care operations. For purposes of this section, the terms 'treatment,' 'payment,' and 'health care operations' have the meanings given those terms in 45 C.F.R. § 164.501."

SECTION 5. Part 1 of Article 6 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"§ 130A-141.1. Temporary order to report.

(a) The State Health Director may issue a temporary order requiring health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information when necessary to conduct a public health investigation or surveillance of an illness, condition, or symptoms that may indicate the existence of a communicable disease or condition that presents a danger to the public health. The order shall specify which health care providers must report, what information is to be reported, and the period of time for which reporting is required. The period of time for which reporting is required pursuant to a temporary order shall not exceed 90 days. The Commission may adopt rules to continue the reporting requirement when necessary to protect the public health.

(b) For the purposes of this section, the term 'health care provider' has the same meaning as that term is defined in G.S. 130A-476(g)."

SECTION 6. G.S. 130A-144(b) reads as rewritten:

"(b) Physicians and persons in charge of medical facilities or laboratories shall, upon request and proper identification, permit a local health director or the State Health Director to examine, review, and obtain a copy of medical or other records in their possession or under their control which the State Health Director or a local health

director determines pertain to the (i) diagnosis, treatment, or prevention of a communicable disease or communicable condition for a person infected, exposed, or reasonably suspected of being infected or exposed to such a disease or ~~condition~~condition, or (ii) the investigation of a known or reasonably suspected outbreak of a communicable disease or communicable condition."

SECTION 7. G.S. 130A-476(c) reads as rewritten:

"(c) The Health care providers and persons in charge of health care facilities or laboratories shall, upon request and proper identification, permit the State Health Director and or a local health director may to examine, review, and obtain a copy of records containing confidential or protected health information, or a summary of pertinent portions of those records, (i) that pertain to a report authorized by subsection (a) or required by subsection (b) of this section-section, or (ii) that, in the opinion of the State Health Director or local health director, are necessary for an investigation of a case or outbreak of an illness, condition, or health hazard that may have been caused by a terrorist incident using nuclear, biological, or chemical agents."

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

In the General Assembly read three times and ratified this the 1st day of July, 2004.

Became law upon approval of the Governor at 4:12 p.m. on the 8th day of July, 2004.

H.B. 1478

Session Law 2004-81

AN ACT TO MAKE A TECHNICAL CORRECTION TO THE LAW CLARIFYING THE STATUS OF TEACHERS PARTICIPATING IN FOREIGN EXCHANGE PROGRAMS FOR PURPOSES OF RETIREMENT AND TENURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-1(25) reads as rewritten:

"(25) "Teacher" shall mean any teacher, helping teacher, classroom teacher in a job-sharing position as defined in G.S. 115C-302.2(b) except for a beneficiary in that position, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the State: Provided, that the term "teacher" shall not include any part-time, temporary, or substitute teacher or employee except for a classroom teacher in a job-sharing position, and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1 or G.S. 135-5.4. In all cases of doubt, the Board of Trustees, hereinbefore defined, shall determine whether any person is a teacher as defined in this Chapter. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "teacher" solely because the person holds a temporary or time-limited visa. Notwithstanding the foregoing, the term "teacher" shall not include any nonimmigrant alien employed in elementary or secondary public schools (whether employed in a full-time, part-time,

temporary, permanent, or substitute teacher position) and participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part ~~62~~. 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q)."

SECTION 2. G.S. 115C-325(a)(4b) reads as rewritten:

"(4b) "Exchange teacher" means a nonimmigrant alien teacher participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part ~~62~~. 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q)."

SECTION 3. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 1st day of July, 2004.

Became law upon approval of the Governor at 4:12 p.m. on the 8th day of July, 2004.

S.B. 1086

Session Law 2004-82

AN ACT TO AUTHORIZE REAR HIGH MOUNTED FLASHING DECELERATION LAMPS ON PUBLIC TRANSIT VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-130 is amended by adding a new subsection to read:

"(e) High Mounted Flashing Deceleration Lamps. – Public transit vehicles may be equipped with amber, high mounted, flashing deceleration lamps on the rear of the vehicle."

SECTION 2. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 1st day of July, 2004.

Became law upon approval of the Governor at 4:12 p.m. on the 8th day of July, 2004.

S.B. 859

Session Law 2004-83

AN ACT TO ESTABLISH THE CATAWBA/WATEREE RIVER BASIN ADVISORY COMMISSION AND THE YADKIN/PEE DEE RIVER BASIN ADVISORY 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 8.

"River Basins Advisory Commissions.

"**§ 77-110. Definitions.**

The following definitions apply in this Article:

- (1) 'Commission' or 'commissions' means (i) the Catawba/Wateree River Basin Advisory Commission, (ii) the Yadkin/Pee Dee River Basin

Advisory Commission, or (iii) both commissions, as required by the context.

- (2) 'River basin' or 'river basins' means (i) that land area designated as the Catawba River Basin pursuant to G.S. 143-215.22G and that land area designated as the Catawba/Wateree River Basin by the South Carolina Department of Health and Environmental Control, (ii) that land area designated as the Yadkin (Yadkin-Pee Dee) River Basin pursuant to G.S. 143-215.22G and that land area designated as the Yadkin/Pee Dee River Basin by the South Carolina Department of Health and Environmental Control, or (iii) both river basins, as required by the context.

"§ 77-111. Commissions established; purposes.

There is established the Catawba/Wateree River Basin Advisory Commission and the Yadkin/Pee Dee River Basin Advisory Commission. The commissions shall be constituted as described in this Article and there shall be a separate commission for each river basin. The commissions shall be permanent bodies composed of members from the State of North Carolina and the State of South Carolina. The purpose of each commission shall be to:

- (1) Provide guidance and make recommendations to local, state, and federal legislative and administrative bodies, and to others as it considers necessary and appropriate, for the use, stewardship, and enhancement of the water, and other natural resources, for all citizens within the river basins.
- (2) Provide a forum for discussion of issues affecting the river basin's water quantity and water quality, and issues affecting other natural resources.
- (3) Promote communication, coordination, and education among stakeholders within the river basins.
- (4) Identify problems and recommend appropriate solutions.
- (5) Undertake studies related to water quantity, water quality, and other natural resources in the river basin based on existing data available from agencies located in either state.
- (6) Determine the optimum approach to comprehensively and collaboratively provide recommendations for integrated river management including, but not limited to, the total assimilative capacity of the river basin.

"§ 77-112. Powers and duties.

(a) The authority granted to each commission shall be advisory in nature and in no way shall either commission be construed to have any regulatory authority.

(b) Neither commission shall have any authority to obligate or otherwise bind the State of North Carolina, the State of South Carolina, or any agency or subdivision of either state.

(c) To achieve its purposes, each commission shall have all of the following powers and duties:

- (1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives including, but not limited to, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this item shall

- be effective upon an affirmative vote by a majority of the commission members.
- (2) To establish standing and ad hoc committees, which shall be constituted in a manner to ensure a balance between recognized interests and states. The commissions shall determine the purpose of each standing or ad hoc committee.
 - (3) To seek, apply for, accept, and expend gifts, grants, donations, services, and other aid from public or private sources. The commissions may accept or expend funds only after an affirmative vote by a majority of the members of the commissions.
 - (4) To exercise the powers of a body corporate, including the power to sue and be sued, and adopt and use a common seal and alter the same.
 - (5) To enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the commissions.
 - (6) To designate a fiscal agent.
 - (7) To perform any lawful acts necessary or appropriate to achieve the purposes of the commissions.

"§ 77-113. Membership; terms of office; eligibility for appointment; meetings.

(a) The Catawba/Wateree River Basin Advisory Commission shall be composed of 15 members as follows:

- (1) Two members of the North Carolina House of Representatives whose districts include a part of the North Carolina portion of the river basin, to be appointed by the Speaker of the North Carolina House of Representatives.
- (2) Two members of the North Carolina Senate whose districts include a part of the North Carolina portion of the river basin, to be appointed by the President Pro Tempore of the North Carolina Senate.
- (3) Two members of the South Carolina House of Representatives, to be appointed by the Speaker of the South Carolina House of Representatives.
- (4) Two members of the South Carolina Senate, to be appointed by the President Pro Tempore of the South Carolina Senate.
- (5) One person from South Carolina representing a water or sewer municipal utility to be appointed by the South Carolina legislative members of the Commission.
- (6) One person from a nonprofit land conservation trust operating within the North Carolina portion of the river basin, appointed by the Governor of North Carolina.
- (7) The President of Duke Power or the President's designee.
- (8) The Chair of the Bi-State Catawba River Task Force or the Chair's designee.
- (9) The Chief Executive Officer of Carolina's Partnership, Inc., or the Chief Executive Officer's designee.
- (10) One person to represent the following commissions, appointed jointly by the three chief executive officers of the commissions: the Lake Wylie Marine Commission established pursuant to Article 4 of Chapter 77 of the General Statutes, the Mountain Island Lake Marine Commission established pursuant to Article 6 of Chapter 77 of the

General Statutes, and the Lake Norman Marine Commission established pursuant to Chapter 1089 of the 1969 Session Laws.

- (11) One member of a lake homeowner's association located on the Catawba/Wateree River whose members reside in South Carolina, to be appointed by the President Pro Tempore of the South Carolina Senate.

(b) The Yadkin/Pee Dee River Basin Advisory Commission shall be composed of 15 members as follows:

- (1) Two members of the North Carolina House of Representatives whose districts include a part of the North Carolina portion of the river basin, to be appointed by the Speaker of the North Carolina House of Representatives.
- (2) Two members of the North Carolina Senate whose districts include a part of the North Carolina portion of the river basin, to be appointed by the President Pro Tempore of the North Carolina Senate.
- (3) Two members of the South Carolina House of Representatives, to be appointed by the Speaker of the South Carolina House of Representatives.
- (4) Two members of the South Carolina Senate, to be appointed by the President Pro Tempore of the South Carolina Senate.
- (5) One person from South Carolina representing a water or sewer municipal utility to be appointed by the South Carolina legislative members of the Commission.
- (6) One person from South Carolina representing the agricultural community to be appointed by the South Carolina legislative members of the Commission.
- (7) One person from a water or sewer municipal authority, appointed by the Governor of North Carolina.
- (8) The President of Progress Energy or the President's designee.
- (9) The President of Alcoa Power Generating, Inc., (APGI) or the President's designee.
- (10) The President of Weyerhaeuser or the President's designee.
- (11) A representative of the land development industry, whose organization does business within the Yadkin/Pee Dee River Basin and who shall be appointed by the Chair of the Commission.

(c) Each member appointed to the commissions pursuant to subdivisions (1) and (2) of subsections (a) and (b) of this section shall serve at the pleasure of the appointing authority so long as the member remains a Representative or Senator. Each member appointed to the commissions pursuant to subdivisions (3) and (4) of subsections (a) and (b) of this section shall serve as provided by the General Assembly of South Carolina. Each member appointed to the commissions pursuant to subdivisions (7) through (9) of subsection (a) and subdivisions (8) through (10) of subsection (b) of this section shall serve for so long as the member continues in the qualifying position or, if the member is a designee, at the pleasure of the designating authority. Each member appointed to the commissions pursuant to subdivisions (6) and (10) of subsection (a) and subdivisions (7) and (11) of subsection (b) of this section shall serve a term of two years and may be reappointed to serve no more than three consecutive full terms or 84 consecutive months, whichever is greater. The term of a person appointed to the commission pursuant to subdivision (10) of subsection (a) of this section shall expire on 1 January of

even-numbered years. The term of a person appointed to the commission pursuant to subdivision (6) of subsection (a) of this section shall expire on 1 January of odd-numbered years. The term of a member who is appointed to the commissions pursuant to subdivisions (5) and (11) of subsection (a) and subdivisions (5) and (6) of subsection (b) of this section shall serve as provided by the General Assembly of South Carolina. An appointment to fill a vacancy on the commissions shall be for the unexpired portion of the term. A vacancy on the commissions shall be filled in the same manner as the original appointment. Members of the commissions who are appointed from or reside in North Carolina may be removed by the Governor of North Carolina for misfeasance, malfeasance, or nonfeasance, as provided in G.S. 143B-13.

(d) The legislative members of each commission may appoint additional members to the commission to serve as advisory members as the legislative members consider necessary.

(e) The members of each commission shall elect a Chair, Vice-Chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. The Chair and the Vice-Chair shall not be from the same state and the Chair shall be rotated between the State of North Carolina and the State of South Carolina.

(f) Each commission shall meet upon the call of the Chair. A majority of each commission shall constitute a quorum for the transaction of business.

(g) The legislative members of the commissions from each state may meet separately to discuss river basin-related issues affecting their state and may report their findings independently of the commissions.

"§ 77-114. Staffing; meeting facilities; assistance by agencies.

(a) The North Carolina Department of Environment and Natural Resources and the South Carolina Department of Health and Environmental Control shall provide staff support and facilities to each commission within the existing programs of the respective agencies. Additional staff may be hired or contracted by each commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by each commission, within available resources.

(b) All agencies of the State of North Carolina and the State of South Carolina shall cooperate with the commissions and, upon request, shall assist each commission in fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural Resources and the Commissioner of the South Carolina Department of Health and Environmental Control or their designees shall each serve as the liaison between their respective state agencies and each commission.

(c) The commissions may obtain information and data upon request from all state officers, agents, agencies, and departments of the State of North Carolina and the State of South Carolina while in discharge of their duties.

"§ 77-115. Funding.

(a) Each commission shall annually adopt a budget that shall include the estimated income and expenses of each commission. Funding for the commissions shall be shared and apportioned between the State of North Carolina and the State of South Carolina as each state may provide through its regular appropriations process.

(b) The accounts and records of each commission showing the receipt and disbursement of funds from whatever source derived shall be in the form that the Auditor of North Carolina and the State Auditor of South Carolina prescribe. The accounts and records of each commission shall be subject to an annual audit by the Auditor of North Carolina and the State Auditor of South Carolina or their legal

representatives. The cost of the annual audits shall be borne by each commission. The results of the audits shall be delivered to the Joint Legislative Commission on Governmental Operations of the General Assembly of North Carolina and to the General Assembly of South Carolina as the General Assembly of South Carolina shall provide.

"§ 77-116. Compensation and expenses of members of the commissions.

(a) Members of the commissions who are appointed from or reside in North Carolina shall receive no salary for their service on the commissions but may be paid, within available resources, per diem, subsistence, and travel expenses as follows:

- (1) Members of the commissions who are members of the General Assembly at the rate established in G.S. 120-3.1.
- (2) Members of the commissions who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6.
- (3) All other members of the commissions at the rate established in G.S. 138-5.

(b) Members of the commissions who are appointed from or reside in South Carolina shall be compensated as provided by the General Assembly of South Carolina.

(c) All expenses shall be paid from funds appropriated or otherwise available to the commissions.

"§ 77-117. Annual report.

The commissions shall submit annual reports, including any recommendations, on or before 1 October of each year to the Governor of North Carolina, the Environmental Review Commission of the General Assembly of North Carolina, the Governor of South Carolina, and the General Assembly of South Carolina, as the Governor, the General Assembly of South Carolina, or the Commissioner of the South Carolina Department of Health and Environmental Control shall provide.

"§ 77-118. Termination.

The General Assembly of North Carolina may terminate the commissions by repealing this Article. The commissions shall terminate if the General Assembly of South Carolina repeals the provisions of the South Carolina Code of Laws that are comparable to this Article."

SECTION 2. Notwithstanding the provisions of G.S. 77-113(c), as enacted by Section 1 of this act, the initial term of the member of the Catawba/Wateree River Basin Advisory Commission appointed pursuant to G.S. 77-113(a)(10) shall expire 1 January 2006. Notwithstanding the provisions of G.S. 77-113(c), as enacted by Section 1 of this act, the initial term of the member of the Catawba/Wateree River Basin Advisory Commission appointed pursuant to G.S. 77-113(a)(6) shall expire 1 January 2007. The Catawba/Wateree River Basin Advisory Commission shall submit the first report pursuant to G.S. 77-117, as enacted by Section 1 of this act, on or before 1 October 2005. The Yadkin/Pee Dee River Basin Advisory Commission shall submit the first report pursuant to G.S. 77-117, as enacted by Section 1 of this act, on or before 1 October 2005.

SECTION 3. This act shall not be construed to obligate the General Assembly of North Carolina or the General Assembly of South Carolina to appropriate any funds to implement the provisions of this act.

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

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law upon approval of the Governor at 4:13 p.m. on the 8th day of July, 2004.

H.B. 1303**Session Law 2004-84**

AN ACT TO REDUCE PRIVILEGE AND EXCISE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-40 is amended by adding two new subdivisions to read:

"(6a) A youth athletic contest with an admissions price that does not exceed ten dollars (\$10.00) sponsored by a person exempt from income tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest means a contest in which each participating athlete is less than 20 years of age.

...
 (7a) All exhibitions, performances, and entertainments promoted and managed by a nonprofit arts organization that is exempt from income tax under G.S. 105-130.11(a)(3). This exemption does not apply to athletic events."

SECTION 2.(a) G.S. 105-113.21 reads as rewritten:

"§ 105-113.21. ~~Refund.~~Discount; 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 two percent (2%). 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~~ paid, less the discount allowed, on the unsalable cigarettes."

SECTION 2.(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 2.(c) G.S. 105-113.39 is reenacted and reads as rewritten:

"§ 105-113.39. Discount.

A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of ~~four percent (4%)~~ two percent (2%). This discount covers losses due to damage to tobacco products, expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond."

SECTION 2.(d) G.S. 105-113.85 is reenacted and reads as rewritten:

"§ 105-113.85. Discount.

Each wholesaler or importer who files a timely return and sends a timely payment may deduct from the amount payable a discount of ~~four percent (4%)~~ two percent (2%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expense of furnishing a bond."

SECTION 3. Section 1 of this act becomes effective July 1, 2004. Section 2 of this act is effective for reporting periods beginning on or after August 1, 2004. Section 3 of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2004.

Became law upon approval of the Governor at 4:13 p.m. on the 8th day of July, 2004.

S.B. 1265**Session Law 2004-85**

AN ACT TO ESTABLISH THE BOUNDARY LINE BETWEEN ORANGE AND CHATHAM COUNTIES TO MEMORIALIZE A 1989 AGREEMENT BETWEEN THOSE TWO COUNTIES WHICH WAS ALREADY REFLECTED IN THE 2000 CENSUS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Chapter 27, Laws of 1770, the boundary line between Chatham County and Orange County shall be as follows: Beginning at an existing point, the Southeast corner of Orange County and the Southwest corner of Durham County, said point being in the Northern line of Chatham County said point being a concrete post with a copper disk, stamped "CO. LINE, DURHAM CO., NO. 1 1968, ORANGE CO. MONUMENT", having a coordinate value of N 234,423.870 meters (m) E 608,128.788 meters (m) as designated to be the corner of Durham and Orange Counties, and the northern line of Chatham County, by the courts of North Carolina. Thence S 86° 56' 43.24" W 925.452 meters (m) to a concrete monument set with aluminum disk (#3) East of Mt Carmel Church Road (SR 1008 and SR 1003) having a coordinate value of N 234,374.554m E 607,204.651m, said point being designated as NCGS station, County Line 3, PID AB2055. Thence S 87° 40' 19.44" W 1,690.615m to a concrete monument set with aluminum disk (#4) East of Clearwater Lake Drive (SR 1918 and SR 1780) having a coordinate value of N 234,305.883m E 605,515.431m, said point being designated as NCGS station, County Line 4, PID AB2056. Thence S 87° 19' 01.23" W 1,763.003m to a concrete monument set with aluminum disk (#5) East of Old Lystra Road (SR 1915 and SR 1724) having a coordinate value of N 234,223.357m E 603,754.361m, said point being designated as NCGS station, County Line 5, PID AB2057. Thence S 87° 33' 27.40" W 1,563.940m to an aluminum Disk set (#6) in the East end of an asphalt traffic island at the intersection of Smith Level Road (SR 1919) with US 15-501 having a coordinate value of N 234,156.710m E 602,191.842m, said point being designated as NCGS station County Line 6, PID AB2058. Thence S 87° 47' 41.52" W 37.347m to a concrete monument set with aluminum disk (#7) West of Smith Level Road (SR 1919) having a coordinate value of N 234,155.273m E 602,154.523m, said point being designated as NCGS station County Line 7, PID AB2059. Thence N 83° 36' 42.54" W 2299.666m to a Berntsen aluminum monument set with brass disk (#8) in the Margaret Daniel Property (Orange County PIN 9766-99-1332) having a coordinate value of N 234,411.143m E

599,869.136 said point being designated as County Line 8. Thence N 83° 13' 04.69" W 1214.099m to a concrete monument set with aluminum disk (#9) East of Poythress Road (SR 1939 and SR 1534) having a coordinate value of N 234,554.519m E 598,663.533m, said point being designated as NCGS station County Line 9, PID AB2061. Thence S 39° 39' 39.13" W 50.139m to a concrete monument set with aluminum disk (#10) East of Poythress Road (SR 1939 and SR 1534) having a coordinate value of N 234,515.920m E 598,631.532m, said point being designated as NCGS station County Line 10, PID AB2062. Thence N 84° 54' 42.26" W 246.205m to Existing Rebar in a concrete post (#11) the Southeast corner of lot 5, Section 2, Wolfs Pond Subdivision, (Plat Book 19 Page 149 OCR) having a coordinate value of N 234,537.756m E 598,386.297m, said point being designated as County Line 11. Thence N 84° 31' 30.43" W 690.729m to Feno monument set with brass disk replacing an existing iron pipe (#12) the Southwest corner of Lot 5, Section 4, Wolfs Pond Subdivision, (Plat Book 22 Page 59 OCR) having a coordinate value of N 234,603.658m E 597,698.719m said point being designated as County Line 12. Thence N 03° 32' 14.02" W 60.959m to a Feno monument set with brass disk (#13) in the line of said Lot 5 having a coordinate value of N 234,664.501m E 597,694.958m said point being designated as County Line 13. Thence N 83° 16' 04.99" W 2422.591m to a concrete monument set with aluminum disk (#14) South of Jones Ferry Road (SR 1942 and SR 1540) having a coordinate value of N 234,948.488m E 595,289.070m, said point being designated as NCGS station County Line 14, PID AB2063. Thence N 83° 15' 33.17" W 2231.659m to a concrete monument set with aluminum disk (#15) to a point in the Walter Braxton Durham Et Al property (Orange County PIN 9747-62-6596) having a coordinate value of N 235,210.435m E 593,072.838m, said point being designated as County Line 15. Thence N 82° 55' 46.72" W 1587.051m to a concrete monument set with aluminum disk (#16) East of White Cross Road (SR 1951 and SR 1541) having a coordinate value of N 235,405.782m E 591,497.855m, said point being designated as NCGS station County Line 16, PID AB2064. Thence N 82° 53' 40.81" W 1668.976m to a Feno monument set with brass disk (#17) in the Walter Atwater property (Orange PIN 9737-43-8522) having a coordinate value of N 235,612.224m E 589,841.696m, said point being designated as County Line 17. Thence N 00° 03' 37.30" E 169.913m to a Feno monument set with brass disk (#18) in the said Walter Atwater property having a coordinate value of N 235,782.137m E 589,841.875m, said point being designated as County Line 18. Thence N 84° 25' 40.82" W 246.394m crossing Collins Mt. Road (SR 1954 and SR 1542) to a Feno monument set with brass disk (#19) in the said Walter Atwater property having a coordinate value of N 235,806.061m E 589,596.645m, said point being designated as County Line 19. Thence S 12° 42' 08.03" W 161.903m to a Feno monument set with brass disk (#20) in the said Walter Atwater property having a coordinate value of N 235,648.120m E 589,561.045m, said point being designated as County Line 20. Thence N 83° 04' 05.12" W 1544.721m to a concrete monument set with aluminum disk (#21) East of Crawford Dairy Road (SR 1956 and SR 1539) having a coordinate value of N 235,834.552m E 588,027.615m, said point being designated as NCGS station County Line 21, PID AB2066. Thence N 82° 29' 19.27" W 967.680m to a computed point in the Haw River (#22) having a coordinate value of N 235,961.049m E 587,068.239m, said point being designated as NCGS station County Line 22, PID AB2077. Also being the ending point, the Southwest corner of Orange County, the Northern boundary line of Chatham County and in the East line of Alamance County.

All coordinates and bearings are based on the North American Datum of 1983/86. All coordinates and distances are in meter units. All pertinent information used in describing this boundary was obtained from the October 2002 plat titled "Resurvey of The CHATHAM-ORANGE COUNTY LINE," Page 1 of 2 and Page 2 of 2, a North Carolina Geodetic Survey prepared by Gary W. Thompson, PLS 2694.

SECTION 2.(a) As to any territory that under Section 1 of this act is moved from Orange County to Chatham County, on and after January 1, 2005, all papers, documents, and instruments required or permitted to be filed or registered, involving residents and property in the area so transferred, which previously would have been recorded in Orange County, shall be recorded in Chatham County. As to any territory that under Section 1 of this act is moved from Chatham County to Orange County, on and after January 1, 2005, all papers, documents, and instruments required or permitted to be filed or registered, involving residents and property in the area so transferred, which previously would have been recorded in Chatham County, shall be recorded in Orange County.

SECTION 2.(b) All public records related to residents and property in any area that Section 1 of this act may have transferred to another county which were filed or recorded prior to January 1, 2005, shall remain in the county where filed or recorded, and such records shall be valid public records as to the property and persons involved even though they are recorded in a county where the property is no longer located.

SECTION 2.(c) In the case of any territory transferred from one county to another by Section 1 of this act, unpaid taxes or tax liens on property subject to taxation in the area transferred by Section 1 of this act shall continue to be valid and enforceable by the prior county, including the foreclosure remedies and the remedies of attachment and garnishment provided for by law.

SECTION 2.(d) No cause of action, including criminal actions, involving persons or property in any area transferred from one county to another under Section 1 of this act which is pending on January 1, 2005, shall be abated by virtue of this act, and such actions shall continue in the same county unless changed under some other provision of law.

SECTION 2.(e) The Board of Elections of Orange County shall immediately upon this act becoming law transfer to the Chatham County Board of Elections the voter registration records pertaining to persons residing in any area transferred to Chatham County by Section 1 of this act, and thereafter the registered voters so transferred shall be validly registered to vote in Chatham County. The Board of Elections of Chatham County shall immediately upon this act becoming law transfer to the Orange County Board of Elections the voter registration records pertaining to persons residing in any area transferred to Orange County by Section 1 of this act, and thereafter the registered voters so transferred shall be validly registered to vote in Orange County.

SECTION 2.(f) The Jury Commissions of Orange and Chatham Counties shall revise their jury lists to add to or eliminate therefrom those persons subject to jury duty who reside in any area transferred from one county to another by Section 1 of this act, said revised jury lists to be effective January 1, 2005.

SECTION 3. This act becomes effective January 1, 2005, except it also applies as to the 2004 election cycle.

In the General Assembly read three times and ratified this the 9th day of July, 2004.

Became law on the date it was ratified.

S.B. 1356

Session Law 2004-86

AN ACT TO TRANSFER CERTAIN PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF GIBSONVILLE TO THE TOWN OF WHITSETT, SUCH PROPERTY BEING TOTALLY SURROUNDED BY THE TOWN OF WHITSETT.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Gibsonville and is added to the corporate limits of the Town of Whitsett:

A tract of land in Rock Creek Township, Guilford County, adjoining State Road #3064 and being described as follows:

BEGINNING at an iron stake in the northern portion of the right of way of N. C. State Rd. #3064 (also known as Whitsett Park Road) and running thence North 84 deg. 52' 30" West 417.50 ft. to an iron pin; thence North 05 deg. 17' East 836.22 ft. to an iron pin; thence South 83 deg. 53' 20" East 418 ft. to an iron pin; thence South 05 deg. 17' 50" West 829.0 ft to the POINT AND PLACE OF THE BEGINNING and containing 7.98 acres more or less as shown on the survey performed by N. Glenn Walker, Surveyor, dated March 11, 1968 and being the same property as conveyed in Deed Book 3826 page 1277.

SECTION 2. Section 1 of this act has no effect upon the validity of any liens of the Town of Gibsonville for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of Gibsonville.

SECTION 3. This act becomes effective June 30, 2004.

In the General Assembly read three times and ratified this the 9th day of July, 2004.

Became law on the date it was ratified.

H.B. 1649

Session Law 2004-87

AN ACT TO AUTHORIZE WAKE COUNTY TO REGULATE THE USE OF IMPAIRING SUBSTANCES WHILE HUNTING WITH FIREARMS.

The General Assembly of North Carolina enacts:

SECTION 1. A county may regulate, control, restrict, and prohibit hunting with firearms by persons under the influence of an impairing substance. For the purposes of this act, an impairing substance is defined as set forth in G.S. 20-4.01.

SECTION 2. This act applies only to Wake County.

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

In the General Assembly read three times and ratified this the 9th day of July, 2004.

Became law on the date it was ratified.

H.B. 1352

Session Law 2004-88

AN ACT TO PROVIDE EMERGENCY FUNDING FOR THE ONE NORTH CAROLINA FUND AND THE NEW AND EXPANDING INDUSTRY TRAINING PROGRAM, TO CODIFY PROVISIONS RELATED TO THE ONE NORTH CAROLINA FUND, TO APPROPRIATE FUNDS TO THE RURAL ECONOMIC DEVELOPMENT CENTER TO BE USED FOR ECONOMIC INFRASTRUCTURE, AND TO MAKE NECESSARY TRANSITIONAL ADJUSTMENTS TO THE STATE BUDGET.

The General Assembly of North Carolina enacts:

APPROPRIATIONS FOR THE ONE NORTH CAROLINA FUND AND FOR THE NEW AND EXPANDING INDUSTRY PROGRAM

SECTION 1.(a) There is appropriated from the General Fund to the One North Carolina Fund the sum of twenty million dollars (\$20,000,000) for the 2003-2004 fiscal year. Funds that are unexpended and unencumbered as of the end of the fiscal year do not revert to the General Fund but remain available for these purposes. It is the intent of the General Assembly that there be a recurring annual appropriation to the One North Carolina Fund of ten million dollars (\$10,000,000) beginning with the 2006-2007 fiscal year.

SECTION 1.(b) Of the funds appropriated in this section to the One North Carolina Fund, the Department of Commerce may use up to three hundred thousand dollars (\$300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the 2004-2005 fiscal year.

SECTION 1.(c) There is appropriated from the General Fund to the Community Colleges System Office the sum of four million one hundred thousand dollars (\$4,100,000) for the 2003-2004 fiscal year for new and expanding industry training. Funds that are unexpended and unencumbered as of the end of the fiscal year do not revert to the General Fund but remain available for these purposes.

SECTION 1.(d) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2H. One North Carolina Fund.

"§ 143B-437.70. 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 retention and 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 purpose of this Part is to stimulate economic activity and to create new jobs within the State.
- (4) The enactment of this Part will maintain consistency and accountability in a key economic development program and will ensure that the program benefits the State and its citizens.
- (5) Nothing in this Part shall be construed to constitute a guarantee or assumption by the State of any debt of any business or to authorize the taxing power or the full faith and credit of the State to be pledged.

"§ 143B-437.71. One North Carolina Fund established as a nonreverting account.

(a) Establishment. – The One North Carolina Fund is established as a special revenue fund in the Department of Commerce.

(b) Purposes. – Moneys in the One North Carolina Fund may be allocated only to local governments for use in connection with securing commitments for the recruitment, expansion, or retention of new and existing businesses. Moneys in the One North Carolina Fund shall be used for the following purposes only:

- (1) Installation or purchase of equipment.
- (2) Structural repairs, improvements, or renovations to 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) Construction of or improvements to new or existing water, sewer, gas, or electric utility distribution lines or equipment for new or proposed buildings to be used for manufacturing and industrial operations.
- (5) Any other purposes specifically provided by an act of the General Assembly.

"§ 143B-437.72. Agreements required; disbursement of funds.

(a) Agreements Required. – Funds may be disbursed from the One North Carolina Fund only in accordance with agreements entered into between the State and one or more local governments and between the local government and a grantee business.

(b) Company Performance Agreements. – An agreement between a local government and a grantee business must contain the following provisions:

- (1) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location and commitments regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained.
- (2) A commitment to provide proof satisfactory to the local government and the State of new jobs created or existing jobs retained and the salary level of those jobs.
- (3) A provision that funds received under the agreement may be used only for a purpose specified in G.S. 143B-437.71(b).
- (4) A provision allowing the State or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.
- (5) A provision establishing the method for determining compliance with the agreement.
- (6) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement.

- (7) A provision requiring recapture of grant funds if a business subsequently fails to comply with the terms of the agreement.
- (8) Any other provision the State or the local government finds necessary to ensure the proper use of State or local funds.

(c) Local Government Grant Agreement. – An agreement between the State and one or more local governments shall contain the following provisions:

- (1) A commitment on the part of the local government to match the funds allocated by the State. A local match may include cash, fee waivers, in-kind services, the donation of assets, the provision of infrastructure, or a combination of these.
- (2) A provision requiring the local government to recapture any funds to which the local government is entitled under the company performance agreement.
- (3) A provision requiring the local government to reimburse the State for any funds improperly disbursed or funds recaptured by the local government.
- (4) A provision allowing the State access to all records possessed by the local government necessary to ensure compliance with the company performance agreement and with the requirements of this Part.
- (5) A provision establishing a schedule for the disbursement of funds from the One North Carolina Fund to the local government that reflects the disbursement schedule established in the company performance agreement.
- (6) Any other provision the State finds necessary to ensure the proper use of State funds.

(d) Disbursement of Funds. – Funds may be disbursed from the One North Carolina Fund to the local government only after the local government has demonstrated that the business has complied with the terms of the company performance agreement. The State shall disburse funds allocated under the One North Carolina Fund to a local government in accordance with the disbursement schedule established in the local government grant agreement.

"§ 143B-437.73. Program guidelines.

The Department of Commerce, in conjunction with the Governor's Office, shall develop guidelines related to the administration of the One North Carolina Fund and to the selection of projects to receive allocations from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, 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.

"§ 143B-437.74. Reports.

The Department of Commerce shall publish a report on the use of funds in the One North Carolina Fund at the end of each fiscal quarter. The report shall contain

information on the commitment, disbursement, and use of funds allocated under the One North Carolina Fund. The report is due no later than one month after the end of the fiscal quarter and must be submitted to the following:

- (1) The Joint Legislative Commission on Governmental Operations.
- (2) The chairs of the House of Representatives and Senate Finance Committees.
- (3) The chairs of the House of Representatives and Senate Appropriations Committees.
- (4) The Fiscal Research Division of the General Assembly."

SECTION 1.(e) 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:

- ...
- (13) The Department of Commerce and the Governor's Office in developing guidelines for the One North Carolina Fund under Part 2H of Article 10 of Chapter 143B of the General Statutes."

SECTION 1.(f) Program guidelines developed by the Department of Commerce for the One North Carolina Industrial Recruitment Competitive Fund that are in effect when this act becomes effective shall apply to the One North Carolina Fund enacted by this act until guidelines for the One North Carolina Fund are adopted pursuant to G.S. 143B-437.73. Program guidelines for the One North Carolina Fund shall be adopted in accordance with G.S. 143B-437.73 on or before September 1, 2004.

SECTION 1.(g) This section becomes effective June 30, 2004. Subsection (d) of this section does not apply to commitments made under the One North Carolina Industrial Recruitment Competitive Fund prior to July 1, 2004.

APPROPRIATION FOR THE RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 2.(a) There is appropriated from the General Fund to the Rural Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000) for the 2003-2004 fiscal year to be allocated as follows:

- (1) To establish the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least fifteen million dollars (\$15,000,000) of the funds appropriated in this section must be used to provide grants under this Program.
- (2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings, with priority given to towns with a population of less than 5,000.
- (3) To provide research and demonstration grants.

SECTION 2.(b) The Rural Economic Development Center, Inc., may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the program, including design of program guidelines and evaluation of program results.

SECTION 2.(c) The Rural Economic Development Center, Inc., may use up to four percent (4%) of the funds appropriated by this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

SECTION 2.(d) The Rural Economic Development Center, Inc., shall report annually to the Joint Legislative Commission on Governmental Operations concerning the progress of the North Carolina Economic Infrastructure Program. It must make its initial report on the program no later than January 15, 2005.

SECTION 2.(e) The General Fund Availability Statement for the 2003-2005 fiscal biennium, as enacted in Section 2.2(a) of S.L. 2003-284, does not reflect the additional General Fund revenue collections in the amount of two hundred thirty-five million one hundred thousand dollars (\$235,100,000) for the 2003-2004 fiscal year.

SECTION 2.(f) This section becomes effective June 30, 2004.

APPROPRIATION TO REPAY DEBT TO THE RETIREMENT SYSTEM

SECTION 3.(a) There is appropriated from the General Fund to the Teachers' and State Employees' Retirement System Fund the sum of twenty million dollars (\$20,000,000) for the 2003-2004 fiscal year to partially pay back the debt owed to the Fund.

SECTION 3.(b) This section becomes effective June 30, 2004.

DIRECTIONS AND LIMITATIONS ON EXPENDITURES OF STATE FUNDS

SECTION 4.(a) The appropriations and the authorizations to allocate and spend funds, which are set out in this act, shall remain in effect until the Current Operations and Capital Improvements Appropriations Act of 2004 becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations and Capital Improvements Appropriations Act of 2004 becomes law, the Director of the Budget shall adjust allocations to give effect to that act from July 1, 2004.

Except as otherwise provided by this act, the limitations and directions for the 2003-2004 fiscal year in S.L. 2003-283 and S.L. 2003-284 remain in effect. Session laws that applied to appropriations to particular agencies or for particular purposes apply to the funds appropriated and authorized for expenditure under this act.

SECTION 4.(b) If the provisions of (i) House Bill 1414, 3rd Edition, of the 2004 Regular Session of the General Assembly, (ii) House Bill 1414, 6th Edition, of the 2004 Regular Session of the General Assembly, or (iii) both, direct that funds shall not revert, the funds shall not revert on June 30, 2004. Unless these funds are encumbered on or before June 30, 2004, these funds shall not be expended after June 30, 2004, except as provided by a statute that becomes effective after June 30, 2004.

SECTION 4.(c) Subsection (b) of this section becomes effective June 30, 2004.

BLOCK GRANT PROVISIONS

SECTION 5. The Director of the Budget shall continue to allocate federal block grant funds at the levels provided in Sections 5.1 and 5.2 of S.L. 2003-284 and as otherwise provided by law, and appropriations from federal block grants are hereby made.

CASH BALANCES, FEDERAL RECEIPTS, AND DEPARTMENTAL RECEIPTS

SECTION 6. 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.

NO AUTOMATIC STEP INCREASES FOR STATE AND PUBLIC SCHOOL EMPLOYEES

SECTION 7. State employees subject to G.S. 7A-102(c), 7A-171.1, or 20-187.3 shall not move up on salary schedules or receive automatic increases, including automatic step increases, until authorized by the General Assembly.

Public school employees paid on the teacher salary schedule or the school-based administrator salary schedule shall not move up on salary schedules or receive automatic step increases until authorized by the General Assembly.

STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30

SECTION 8.(a) Notwithstanding G.S. 143-15.2 and G.S.143-15.3, for the 2003-2004 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2004.

SECTION 8.(b) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the 2003-2004 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2004.

SECTION 8.(c) This section becomes effective June 30, 2004.

EFFECTIVE DATE

SECTION 9. Except as otherwise provided in this act, this act becomes effective July 1, 2004. Sections 4 through 8 of this act expire July 9, 2004.

In the General Assembly read three times and ratified this the 30th day of June, 2004.

Became law upon approval of the Governor at 3:17 p.m. on the 9th day of July, 2004.

S.B. 1254

Session Law 2004-89

AN ACT TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO PROVIDE CRIMINAL RECORD CHECKS TO THE RESPIRATORY CARE BOARD FOR APPLICANTS FOR LICENSURE AND TO CHARGE A FEE FOR CONDUCTING THE CHECKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-652 reads as rewritten:

"§ 90-652. Powers and duties of the Board.

The Board shall have the power and duty to:

- (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. The Department of Justice may provide a criminal record check to the Board for a person who has applied for a license 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 Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

- (2) Establish and adopt rules necessary to conduct its business, carry out its duties, and administer this Article.
- (3) Adopt and publish a code of ethics.
- (4) Deny, issue, suspend, revoke, and renew licenses in accordance with this Article.
- (5) Conduct investigations, subpoena individuals and records, and do all other things necessary and proper to discipline persons licensed under this Article and to enforce this Article.
- (6) Employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article and purchase or rent office space, equipment, and supplies.
- (7) Adopt a seal by which it shall authenticate its proceedings, official records, and licenses.
- (8) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.
- (9) Establish certain reasonable fees as authorized by this Article for applications for examination, licensure, provisional licensure, renewal of licensure, and other services provided by the Board.
- (10) Submit an annual report to the North Carolina Medical Board, the North Carolina Hospital Association, the North Carolina Society of Respiratory Care, the Governor, and the General Assembly of all the Board's official actions during the preceding year, together with any recommendations and findings regarding improvements of the practice of respiratory care.
- (11) Publish and make available upon request the licensure standards prescribed under this Article and all rules adopted pursuant to this Article.
- (12) Request and receive the assistance of State educational institutions or other State agencies.
- (13) Establish and approve continuing education requirements for persons seeking licensure under this Article."

SECTION 1.1. If House Bill 1352, 2003 Regular Session, becomes law, then Section 9 of that act reads as rewritten:

"**SECTION 9.** Except as otherwise provided in this act, this act becomes effective July 1, 2004. Sections 4 through 8 of this act expire ~~July 9, 2004.~~ July 17, 2004."

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

In the General Assembly read three times and ratified this the 9th day of July, 2004.

Became law upon approval of the Governor at 1:54 p.m. on the 13th day of July, 2004.

S.B. 1205

Session Law 2004-90

AN ACT TO MODIFY THE DISTRIBUTIONS FROM THE TOWN OF RUTHERFORDTON BOARD OF ALCOHOLIC BEVERAGE CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5.4 of the Charter of the Town of Rutherfordton, as amended by Section 1 of S.L. 2002-65, reads as rewritten:

"Section 5.4. Alcoholic Beverage Control Stores. A. The governing body of the Town of Rutherfordton may, on its own motion, and shall, upon receipt of petition signed by qualified voters of the Town equal in number to fifteen percent (15%) of the votes cast for Mayor in the most recent regular town election, call and conduct a special election in the Town upon the question of whether Alcoholic Beverage Control stores shall be established in the Town and/or whether 'off-premises' sales of malt beverages shall be permitted. Such election or elections may be held notwithstanding the provisions of G.S. 18A-52(d)(h) and (i). No new registration of voters shall be necessary for such special election, and all qualified voters of the town who are registered prior to the registration period for such special election, and all who register during such period shall be eligible and entitled to vote in such special election. Except as otherwise provided herein, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Rutherfordton. The governing body shall cause public notice of any such special election to be posted at the Town Hall and published in a newspaper having general circulation in the town at least 15 days preceding the day of the election.

B. At such special election, ballots shall be provided which contain the words, 'For Town Alcoholic Beverage Control Stores' and 'Against Town Alcoholic Beverage Control Stores' and/or, 'For off-premises sales of malt beverages' and 'Against off-premises sales of malt beverages'. The Town Council shall determine whether both questions are to be included on the same ballot or separate ballots. Appropriate squares shall be printed to the left of each phrase so that each voter may designate with an 'X' his preference. The cost of conducting the election shall be appropriated from the General Fund of the Town of Rutherfordton.

C. If a majority of the votes cast at any such special election authorized under this section shall be cast 'For Town Alcoholic Beverage Control Stores' then it shall thereafter be lawful for such store or stores to be established and operated within the town, and the Town Council will then immediately create and appoint the Town of Rutherfordton Alcoholic Beverage Control Board, to be composed of a chairman and two other members. The member designated chairman by the Town Council shall serve for a term of three years; one member for a term of two years; and one member for a term of one year. After serving the initial terms, successors shall be appointed for terms of three years. Any vacancy on such board shall be filled by the Town Council for the unexpired term. Compensation of the members of the Board shall be fixed by the Town Council. If a majority of the votes cast in any such election authorized under this section shall be cast 'For off-premises sales of malt beverages' then the off-premises sale of malt beverages shall thereafter be lawful in the Town of Rutherfordton.

D. The Town of Rutherfordton Alcoholic Beverage Control Board shall have all the powers granted to, and duties imposed upon, county alcoholic control boards by G.S. 18A-17, except that G.S. 18A-17 (14) shall not apply to the Rutherfordton Board of Alcoholic Beverage Control, and shall be subject to the powers and authority of the State Board of Alcoholic Beverage Control as granted by G.S. 18A-15; provided, however, that the location of stores and the purchase or lease of real property shall be subject to the approval of the Town Council.

The Rutherfordton Board of Alcoholic Beverage Control on a quarterly basis shall, after retaining a sufficient and proper working capital and making payment of salaries and expenses, distribute the net profits out of the operation of said alcoholic beverage

control store(s) in accordance with a resolution duly adopted by the Town Council of Rutherfordton, the following manner, and none other:

~~Five percent (5%) to the Rutherford County Department of Mental Health to be specifically used for alcohol and drug rehabilitation programs.~~

~~Eleven percent (11%) to the Rutherford County Board of Education for specific use in meeting capital outlay needs at Rutherfordton Spindale High School.~~

~~Five and one half percent (5.5%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs at Rutherfordton Elementary School.~~

~~Five and one half percent (5.5%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs at Rutherfordton Spindale Middle School.~~

~~Three percent (3%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs of Rutherford Opportunity Center.~~

~~Twenty percent (20%) to the Town of Rutherfordton Parks and Recreation Commission to be used for capital improvements, maintenance and programs in its Recreational activities.~~

~~Twenty five percent (25%) to the Town Council of Rutherfordton for use in law enforcement through the Town Police Department.~~

~~Twenty five percent (25%) to the Town Council of Rutherfordton to be used for any lawful purposes the board may deem necessary and essential.~~

Copies of the governing body resolutions detailing the distribution formula shall be submitted to the North Carolina Alcoholic Beverage Control Commission for review and audit purposes.

All agencies outside of the government of the Town of Rutherfordton which receive net proceeds from the Town Alcoholic Beverage Control Board, shall be required to file an annual report to the Town Council, specifying how all proceeds were expended.

E. Subsequent elections on Alcoholic Beverage Control stores or off-premises sales of malt beverages shall not be held within two years of any previous election on the question, provided an election on one question shall not prevent an election on the other question.

If a subsequent election is held and the majority of the votes are cast 'Against Town Alcoholic Beverage Control Stores' the Town of Rutherfordton Alcoholic Beverage Control Board shall, within three months of certification of such election, dispose of all alcoholic beverages on hand and all of the assets under the control of said board, and convert the same into cash and turn the same over to the Town Treasurer. If a subsequent election is held and the majority of the votes are cast 'Against off-premises sales of malt beverages' then the off-premises sale of malt beverages shall cease to be lawful in the Town of Rutherfordton."

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

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law on the date it was ratified.

S.B. 1209

Session Law 2004-91

AN ACT MAKING A TECHNICAL CORRECTION TO THE AUTHORITY OF THE DURHAM CITY HOUSING APPEALS BOARD TO HEAR APPEALS.

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 and by S.L. 2003-51, reads as rewritten:

"(b) The city council may, by ordinance, also authorize the 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, ~~Article 11~~ Articles 3 and 11 of Chapter VI of this Charter, and G.S. 160A-193 which, in the absence of such ordinance, would or may reach the council for action or decision. 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 13th day of July, 2004.

Became law on the date it was ratified.

S.B. 1347

Session Law 2004-92

AN ACT AUTHORIZING THE CITY OF KANNAPOLIS TO HOLD A REFERENDUM ON THE OPERATION OF ABC STORES AS PART OF THE ROWAN COUNTY ABC SYSTEM, AND TO SPECIFY HOW PROFITS FROM THOSE STORES SHALL BE DISTRIBUTED.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, the City of Kannapolis may hold an election on the establishment of ABC stores pursuant to G.S. 18B-600(d). The call for the election, and the procedure for conducting it, shall be in accordance with G.S. 18B-601. All registered voters in the City of Kannapolis shall be eligible to vote in the election.

SECTION 2. If an election is called, the ballot shall state the proposition as follows:

"[] FOR [] AGAINST

To permit the operation of ABC stores throughout Kannapolis by the Rowan County ABC system."

SECTION 3. If an election is held pursuant to this act, and if a majority of the voters voting in the election vote in favor of the operation of ABC stores in the City of Kannapolis, then the stores shall be established and operated by the Rowan/Kannapolis ABC Board as provided in Section 4 of this act.

SECTION 4. If an election is held pursuant to this act and the operation of ABC stores in the City of Kannapolis is approved, the Rowan County ABC Board shall be renamed the Rowan/Kannapolis ABC Board. The terms of the current members of the Rowan County ABC Board shall not be affected by this act, and the Rowan County Board of Commissioners shall continue to appoint three members for staggered, three-year terms on the same schedule as is now followed.

SECTION 5. After the distribution of the portion of the gross receipts required by G.S. 18B-805(a) through (d), the Rowan/Kannapolis ABC Board shall distribute the remaining receipts as follows:

- (1) Forty percent (40%) shall be paid to Rowan County.

- (2) Twenty-two and one-half percent (22½%) shall be paid to the City of Salisbury.
- (3) Twenty-two and one-half percent (22½%) shall be paid to the City of Kannapolis.
- (4) The remaining fifteen percent (15%) shall be distributed to the other incorporated municipalities in Rowan County with each municipality receiving a percentage equal to the proportion of its census population to the total census population of all of the municipalities receiving funds under this subdivision.

SECTION 6. As provided in G.S. 18B-805(e), the governing bodies of the entities receiving revenue from the Rowan/Kannapolis ABC Board may agree upon a different distribution of those funds, subject to the following:

- (1) If all the affected governmental entities agree, the distribution may be altered in any manner they choose.
- (2) Rowan County, the City of Salisbury, and the City of Kannapolis may agree by themselves to a different division of eighty-five percent (85%) of the distribution which goes to those three local governments.

SECTION 7.(a) If the operation of ABC stores in Kannapolis is approved pursuant to this act, and the Rowan/Kannapolis ABC Board is established but subsequently the City of Kannapolis votes against the operation of ABC stores, the board shall be renamed the Rowan County ABC Board and shall operate ABC stores in Rowan County, including the Rowan County portion of the City of Kannapolis, as it did before the establishment of the additional stores in the City of Kannapolis started pursuant to this act. Should that occur, the gross receipts from the operation of the ABC stores, after the distributions required by G.S. 18B-805(a) through (d) shall be as follows:

- (1) Fifty percent (50%) shall be paid to Rowan County.
- (2) Thirty percent (30%) shall be paid to the City of Salisbury.
- (3) The remaining twenty percent (20%) shall be distributed to the other incorporated municipalities in Rowan County with each municipality receiving a percentage equal to the proportion of its census population to the total census population of all of the municipalities receiving funds under this subdivision.

SECTION 7.(b) The governmental entities receiving revenue from the Rowan County ABC Board may spend those funds for any proper governmental function. As provided in G.S. 18B-805(e), the governing bodies of those entities may agree to a different distribution of the revenues.

SECTION 8. If the operation of ABC stores in the City of Kannapolis is approved pursuant to this act, but subsequently Rowan County votes against the operation of ABC stores, the board shall be renamed the Kannapolis ABC Board. The Kannapolis ABC Board shall be appointed and shall operate as provided in Chapter 18B of the General Statutes and shall be authorized to operate ABC stores in the entire City of Kannapolis.

SECTION 9. Notwithstanding the provisions of G.S. 18B-603(c)(3) and any similar provision of the General Statutes, a vote in favor of ABC stores in the City of Kannapolis pursuant to this act shall not affect the issuance of ABC permits in any other portion of Cabarrus or Rowan counties.

SECTION 10. Except as otherwise provided in this act, the operation of ABC stores in Rowan County and the City of Kannapolis shall be governed by the provisions of Chapter 18B of the General Statutes.

SECTION 11. The following acts are repealed:

- (1) Chapter 585 of the Public-Local Laws of 1937.
- (2) Chapter 650 of the Session Laws of 1947.
- (3) Chapter 461 of the Session Laws of 1951.
- (4) Chapter 830 of the Session Laws of 1955.
- (5) Chapter 1093 of the Session Laws of 1959.

SECTION 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law on the date it was ratified.

S.B. 1355

Session Law 2004-93

AN ACT AUTHORIZING THE CITY OF GOLDSBORO 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. Section 2 of S.L. 2003-133 reads as rewritten:

"**SECTION 2.** Section 1 of this act applies to the ~~City of Durham~~ Cities of Durham and Goldsboro only."

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

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law on the date it was ratified.

S.B. 1370

Session Law 2004-94

AN ACT TO CHANGE THE PROCEDURE FOR DISPOSAL OF SURPLUS STANDARD AND SUBSTANDARD LOTS BY THE CITY OF GOLDSBORO AND WAYNE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, the following procedures may be utilized by the City of Goldsboro relative to the sale of surplus real property owned alone by the City or jointly owned by the City and by Wayne County.

SECTION 1.(b) Substandard surplus real property may be disposed of under the following procedures:

- (1) The City Clerk will notify the Planning and Community Development Department of the City's receipt of substandard surplus property.
- (2) The Planning and Community Development Department will identify all contiguous property owners.
- (3) The Planning and Community Development Department will determine if any of the adjoining parcels are substandard.

- (4) If only one of the adjacent lots is substandard, the owner of that lot will be deeded the City's surplus lot if the owner elects in writing to receive title to the property in return for one dollar (\$1.00).
- (5) If more than one adjoining parcel to the surplus property is substandard, the Planning and Community Development Department will contact these property owners to determine their interest in receiving the substandard lot. If more than one adjoining property owner elects in writing to receive title to a portion of the substandard lot, the property will be divided in order to create two standard adjoining lots.
- (6) If dividing the substandard lot among adjoining property owners does not create two standard lots, ownership of the entire lot will be awarded to the owner of the adjoining lot with the greater degree of a substandard condition. If not accepted by this adjoining owner, then the lot will be awarded to the other adjoining owner.
- (7) If the property adjacent to a substandard lot is standard in nature, the property will be divided among the adjoining property owners. If only one adjoining standard property owner shows interest in the standard lot, full property ownership will be awarded to this owner.

SECTION 1.(c) Standard surplus real property may be disposed of under the following procedures:

- (1) The City Clerk will notify the Planning and Community Development Department of the City's receipt of standard real surplus property.
- (2) The Planning and Community Development Department will identify all contiguous property owners.
- (3) The Planning and Community Development Department will determine if any of the adjoining parcels are substandard.
- (4) If a substandard lot adjoins a standard City surplus lot and the property owner agrees to pay fifty percent (50%) of the tax value of the surplus lot, this lot will be sold to the owner of the substandard lot at this price without soliciting further additional bids.
- (5) If more than one adjoining property is substandard and both property owners are willing to share in the minimum asking price of fifty percent (50%) of the total property tax value of the standard lot, the lot in question will then be subdivided between the two adjoining property owners of substandard lots without soliciting further bids provided this division creates two standard lots. If not accepted by this adjoining owner, then the lot will be awarded to the other adjoining owner.
- (6) When all adjacent lots are standard in nature, the Finance Department will conduct the sale of the standard surplus lot. Standard surplus lots will be offered for sale in accordance with the provisions of G.S. 160A-266, provided however, the minimum sales price will be at least fifty percent (50%) of the property's tax value. No bid for the lot under fifty percent (50%) of the property's tax value may be accepted by the City council.

SECTION 2. When selling standard properties, the City of Goldsboro will at a minimum:

- (1) Notify the adjacent property owners and individuals and entities who have bid on surplus property in the past as well as all local real estate firms.
- (2) Place upon the property a "For Sale" sign.
- (3) Place a nonlegal advertisement in a local newspaper.
- (4) Arrange for the broadcast of at least one public service announcement on a local radio station and PACC 10 TV.

SECTION 3. The City of Goldsboro will contact the County of Wayne for its concurrence prior to beginning the sale of substandard and standard lots which are jointly owned by both governmental entities.

SECTION 4. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law on the date it was ratified.

H.B. 1721

Session Law 2004-95

AN ACT TO ALLOW AN INCREASE IN THE CURRITUCK COUNTY OCCUPANCY TAX AND TO CHANGE THE PURPOSES FOR WHICH THE TAX MAY BE USED.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws and Chapter 155 of the 1999 Session Laws, is amended by adding a new subsection to read:

"(a2) Second Additional Occupancy Tax. – In addition to the tax authorized by subsections (a) and (a1) of this section, the Currituck County Board of Commissioners may levy a room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this act. Currituck County may not levy a tax under this subsection unless it also levies the tax under subsections (a) and (a1)."

SECTION 2. Section 1(e) of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, reads as rewritten:

"(e) Use of tax revenue. Currituck County shall use at least seventy five percent (75%) of the net proceeds of the tax levied under subsection (a) of this section only for tourist related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services. ~~tourism-related expenditures, including beach nourishment.~~ The remainder of the net proceeds of the tax levied under subsection (a) shall be deposited in the Currituck County General Fund and may be used for any lawful purpose. Currituck County may shall use at least two-thirds of the net proceeds of the tax levied under subsection subsections (a1) and (a2) of this section, to the extent that they are needed, for capital costs, operation, and maintenance of the Currituck Wildlife Museum. Whatever is not needed for the capital costs, operation, and maintenance of the Currituck Wildlife Museum shall be used for tourist related purposes. As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer. section to

promote travel and tourism and shall use the remainder of those funds for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the shorelines of the Atlantic Ocean of North Carolina and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for any of the following:
 - a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies.
 - b. The nonfederal share of the cost required to construct these projects.
 - c. The costs associated with providing enhanced public beach access.
 - d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.
- (2) Net proceeds. – Gross proceeds less the cost to the county 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.
- (3) 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 these activities.
- (4) Tourism-related expenditures. – Expenditures that, in the judgment of the Currituck County Board of Commissioners, are designed to increase the use of lodging facilities, meeting facilities, recreational facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures and beach nourishment."

SECTION 3. Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws and Chapter 155 of the 1999 Session Laws, is amended by adding a new section to read:

"Section 1.1. Currituck County Tourism Development Authority. – (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of six members: five voting members and one ex officio nonvoting member. The ex

officio nonvoting member shall be the county's designated travel and tourism representative. The voting members shall be as follows:

- (1) The county commissioner representing the Moyock Township.
- (2) The county commissioner representing the Crawford Township.
- (3) The county commissioner representing the Poplar Branch Township.
- (4) The county commissioner representing the Fruitville Township.
- (5) The at-large county commissioner.

(b) Administration. – The resolution creating the Authority shall designate one member of the Authority to serve as the initial chair and provide for the members' terms of office and for the filling of vacancies on the Authority. After the initial term, the Authority must elect a chair from among its members. The members of the Authority shall serve without pay. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Currituck County shall be the ex officio finance officer of the Authority.

(c) 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, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

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

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

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law on the date it was ratified.

H.B. 1730

Session Law 2004-96

AN ACT TO ALLOW THE TOWN OF HOLDEN BEACH TO IMPOSE A SEWER TREATMENT FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Fee-Supported District. – A municipality may create a fee-supported sewer treatment district for all properties that are or can be served by the sewage collection and treatment plant serving properties within the Town.

SECTION 2. Creation of Fee-Supported District. – The Town may adopt a resolution establishing a fee-supported sewer treatment district.

SECTION 3. Imposition of Annual Fees. – The Town may impose annual fees for the availability of sewer service within the district. The Board shall set same on or before July 1 each year.

SECTION 4. Fees. – The fees imposed by the municipality may not exceed the cost of providing the sewer collection facility within the municipality and the cost of the contract with a county to provide it with the facilities to transport, treat, and dispose of the municipality's effluent. Said fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from the availability of sewage treatment.

SECTION 5. Billing of Fees. – The municipality may include a fee imposed under this section on the property tax bill for each parcel of property lying within the municipal limits on which the fee is imposed. Said fee shall be collected in

the same manner as provided for in the General Statutes for the collection of ad valorem taxes, and remedies available by statute for the collection of taxes shall apply to the collection of the sewer district fees.

SECTION 6. Use of Fees. – The Town shall credit the fees collected within the district to a separate fund to be used only to pay the debt service for the sewer system. The governing board of the municipality shall administer the fund to provide for the payment of said sewer services provided by the county.

SECTION 7. Abolition of District. – Upon finding that there is no longer a need for a given fee-supported district, the governing board of the municipality may repeal the resolution establishing the district and thus abolish the district.

SECTION 8. This act applies only within the Town of Holden Beach.

SECTION 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law on the date it was ratified.

H.B. 1733

Session Law 2004-97

AN ACT TO ALLOW THE CITY OF SOUTHPORT TO ASSESS BENEFITED PROPERTY FOR UNDERGROUNDING UTILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Southport, being Chapter 659 of the 1983 Session laws, is amended by adding a new Article to read:

"ARTICLE X. SPECIAL ASSESSMENT AUTHORITY FOR PLACEMENT OF UTILITIES UNDERGROUND.

"**Sec. 10.1.** Special Assessment Authority for Placement of Utilities Underground. In addition to the assessment authority provided in G.S. 160A-216, the Board of Aldermen may make special assessments against benefited property within the corporate limits for placing utility lines underground. For the purpose of this section, utility lines include electrical distribution, telephone, and cable television lines. Any assessments made under this section shall be made in accordance with the procedural requirements of Article 10 of Chapter 160A of the General Statutes.

Sec. 10.2. Obligation of Utility. A utility shall have no obligation to place its lines underground pursuant to this section unless and until it receives payment for its costs to do so."

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

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law on the date it was ratified.

H.B. 1737

Session Law 2004-98

AN ACT AUTHORIZING THE CITIES OF WINSTON-SALEM AND REIDSVILLE TO ORDER DWELLINGS DETERMINED UNFIT FOR HUMAN HABITATION REPAIRED OR DEMOLISHED AFTER A PERIOD OF SIX MONTHS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 160A-443(5a) reads as rewritten:

"(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~~ six months 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~~ six months 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~~ six-month 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).~~"

SECTION 1.(b) This section applies to the City of Winston-Salem only.

SECTION 2.(a) G.S. 160A-443(5b) reads as rewritten:

"(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~~ six months 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~~ six months 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~~ six-month 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, Reidsville, Roanoke Rapids, and Whiteville, to the municipalities in Lee County, and the Towns of Bethel, Farmville, Newport, and Waynesville only."

SECTION 2.(b) This section applies to the City of Reidsville only.

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

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law on the date it was ratified.

S.B. 1305

Session Law 2004-99

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE TOWN OF ANGIER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

"(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, Gastonia, Locust, Newton, Sanford, Salisbury, and Southport, and the Towns of Angier, 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 15th day of July, 2004.

Became law on the date it was ratified.

S.B. 1315

Session Law 2004-100

AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW FOR CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-322(g) reads as rewritten:

"(g) Powers and Duties. – The board of equalization and review has the following powers and duties:

...

- (3) Powers in Carrying Out Duties. – In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:
- a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by the taxpayer if the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.
 - b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above.
 A subpoena issued by the board shall be signed by the chair of the board, directed to the witness or to the person having custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.
 - c. In any year of general reappraisal, the chair of the board may divide the board into two or more separate panels with a minimum of three members each. The board members on each panel may be interchanged during the year. A decision by the panel has the same effect as a decision by the entire board.

- ...
- (5) ~~Duty to Change Abstracts and Records~~Powers After Adjournment. – Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this ~~subsection, section,~~ the board may continue to meet to carry out the following duties:
- a. To hear and decide all appeals relating to discovered property under G.S. ~~105-312(d) and (k).~~105-312.
 - b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).
 - c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation.
 - d. To hear and decide all appeals relating to personal property under G.S. 105-317.1(c).

e. To exercise its authority under G.S. 105-282.1(a1) to accept an application for exemption or exclusion that was filed after the statutory deadline.

f. To make any changes authorized by G.S. 105-325."

SECTION 2. S.L. 2000-92 is repealed.

SECTION 3. This act applies to Cabarrus County only.

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

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law on the date it was ratified.

H.B. 1401

Session Law 2004-101

AN ACT TO PERMIT THE COUNTY OF WILKES TO ACQUIRE PROPERTY AND CONVEY IT TO THE STATE FOR USE AS A VISITORS' CENTER/REST AREA.

The General Assembly of North Carolina enacts:

SECTION 1. The County of Wilkes has power under 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 Department of Transportation Visitors' Center/Rest Area.

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

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law on the date it was ratified.

H.B. 1688

Session Law 2004-102

AN ACT TO ALLOW A DEFERRED EFFECTIVE DATE FOR CERTAIN VOLUNTARY ANNEXATIONS OF THE CITY OF CONCORD.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 160A-31(d), the City Council of the City of Concord may make annexation ordinances adopted pursuant to Part 1 of Article 4A of Chapter 160A of the General Statutes effective on any specified date within 24 months from the date of passage of the annexation ordinance if that ordinance applies to some or all of the following described property:

TRACT ONE (31.87 acres for Phase 1 of Brandon Ridge Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the North side of Piney Church Road, and being a tract of land containing 31.87 acres, bounded on the West by Dan Moser Co., Inc. and on the East by St. Andrews Place, and being more particularly described as follows:

BEGINNING at an existing iron within Piney Church Road, said iron being a front common corner of Crawford Love, Terry Lamb, and Donald Reid, and runs thence with the line of Crawford Love, N. 61-41-36 E. 166.30 feet to an iron, a rear corner of Love; thence continuing with the line of Love, N. 41-15-39 W. 263.13 feet to an iron in the line of Dan Moser Co.; thence with the line of Dan Moser Co., N. 33-22-32 E. 1805.36 feet to a point, a new corner; thence a new line S. 49-58-02 E. 189.82 feet to a point;

thence continuing a new line, S. 27-26-57 E. 160.38 feet; thence continuing a new line, S. 62-33-03 W. 210.70 feet to a point; thence continuing a line with a curve having a radius of 125.00 feet and a length of 63.65 feet with a chord bearing S. 47-57-48 W. and a chord distance of 62.96 feet to a point; thence continuing a new line, S. 33-22-32 W. 202.12 feet to a point; thence continuing a new line, S. 45-18-45 E. 578.43 feet to a point; thence continuing a new line, S. 44-41-15 W. 18.00 feet to a point; thence continuing eight new lines as follows:

- (1) S. 45-18-45 E. 110.00 feet to a point;
- (2) S. 44-41-15 W. 71.65 feet to a point;
- (3) S. 44-41-15 W. 41.00 feet to a point;
- (4) S. 39-13-39 W. 55.15 feet to a point;
- (5) S. 38-14-18 W. 27.48 feet to a point;
- (6) S. 21-00-51 W. 30.32 feet to a point;
- (7) S. 20-33-51 W. 46.66 feet to a point; and
- (8) S. 19-01-17 W. 461.00 feet to a point;

thence continuing a new line, S. 70-58-43 E. 85.00 feet to a point; thence with the line of a curve having a radius of 25.00 feet, an arc distance 39.27 feet, with a chord bearing N. 64-01-17 E. and a chord distance of 35.36 feet to a point; thence continuing a new line, S. 71-22-38 E. 210.01 feet to a point in the rear line of Lot 28, St Andrews Place, Phase I, Map II; thence with the rear line of St Andrews Place, Phase I, Map II, S. 19-01-17 W. 310.87 feet to an existing iron near the northern edge of Piney Church Road; thence N. 61-01-07 W. 118.65 feet to a point within Piney Church Road, in the front line of Margaret H. Jarrell; thence with the front line of Jarrell, N. 63-26-14 W. 149.15 feet to an existing iron; thence N. 73-41-16W. 188.28 feet to an iron, a corner of Piney Grove Methodist Church; thence with the front line of said church, N. 79-10-30 W. 96.17 feet to an existing iron; thence continuing with the line of said church and with the line of Rufus Reid, S. 89-18-46 W. 250.07 feet to an iron in the front line of Reid; thence with the front line of Rufus N. Reid and Terry C. Lamb, N. 74-50-56 W. 469.98 feet to the point of BEGINNING, containing 31.87 acres, more or less, as shown on a boundary survey of Phase One (1), BRANDON RIDGE SUBDIVISION, by Spratt & Brooks Land Surveying, Richard Boyd Brooks, P.L.S., dated October 18, 2002.

TRACT TWO (18.23 acres for Phase 2 of Brandon Ridge Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the North side but not adjoining Piney Church Road, bounded on the East by Dan Moser Co. and on the North by Southbrook Subdivision, and being more particularly described as follows:

BEGINNING at an existing iron in the line of Dan Moser Co., said iron being a rear corner of Lot 114, Southbrook, Phase II, III & IV, and runs thence with the line of Southbrook Subdivision, S. 44-52-58 E. 836.71 feet to a stone in the rear line of Lot 107; thence continuing with the rear line of Southbrook Subdivision, S. 45-18-45 E. 309.33 feet to a point in the rear line of Lot 100, Southbrook Subdivision; thence a new line, S. 44-41-15 W. 160.00 feet to a point; thence continuing fourteen (14) new lines as follows:

- (1) S. 45-18-45 E. 34.87 feet to a point;
- (2) S. 44-41-15 W. 160.00 feet to a point;
- (3) S. 45-18-45 E. 22.27 feet to a point;
- (4) S. 44-41-15 W. 160.00 feet to a point;
- (5) N. 45-18-45 W. 22.27 feet to a point;
- (6) S. 44-41-15 W. 110.00 feet to a point;

- (7) N. 45-18-45 W. 82.00 feet to a point;
- (8) S. 44-41-15 W. 160.00 feet to a point;
- (9) N. 45-18-45 W. 23.00 feet to a point;
- (10) S. 44-41-15 W. 128.00 feet to a point;
- (11) N. 45-18-45 W. 110.00 feet to a point;
- (12) N. 44-41-15 E. 18.00 feet to a point;
- (13) N. 45-18-45 W. 578.43 feet to a point;
- (14) N. 33-22-32 E. 202.12 feet to a point;

thence with the line of a curve having a radius of 125.00 feet for an arc distance of 63.65 feet and a chord bearing of N. 47-57-48 E. 62.96 feet to a point; thence continuing a new line, N. 62-33-03 E. 210.70 feet to a point; thence continuing a new line, N. 27-26-57 W. 160.38 feet to a point; thence continuing a new line, N. 49-58-02 W. 189.82 feet to a point in the line of Dan Moser Co.; thence with the line of Dan Moser Co., N. 33-22-32 E. 378.23 feet to the point of BEGINNING, containing 18.23 acres, more or less, as shown on a boundary survey of Phase II, BRANDON RIDGE SUBDIVISION by Spratt & Brooks Land Surveying, Richard Boyd Brooks, P.L.S., dated October 18, 2002.

TRACT THREE (21.95 acres for Phase 3 of Brandon Ridge Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the North side, but not adjoining Piney Church Road, bounded on the South by St Andrews Place, Phase I, Map II, on the East by Sarah S. Lowder, and on the North by Southbrook Subdivision, and being more particularly described as follows:

BEGINNING at a concrete monument, said monument being the rear common corner of Lots 32 and 33, St Andrews Place, Phase I, Map II, Map Book 32, Page 44, Cabarrus County Registry, and runs thence with the line of St Andrews Place, Phase I, Map II, S. 68-39-37 E. 750.05 feet to a concrete monument, a rear corner of Lot 57, St Andrews Place, in the line of Sarah S. Lowder; thence with the line of Lowder, N. 25-28-53 E. 774.78 feet to an existing iron in the rear line of Lot 91, Southbrook Subdivision; thence with the rear line of Southbrook Subdivision, N. 45-18-45 W. 703.30 feet to a point in the rear line of Lot 100, Southbrook Subdivision; thence eighteen (18) new lines as follows:

- (1) S. 44-41-15 W. 160.00 feet to a point;
- (2) S. 45-18-45 E. 34.87 feet to a point;
- (3) S. 44-41-15 W. 160.00 feet to a point;
- (4) S. 45-18-45 E. 22.27 feet to a point;
- (5) S. 44-41-15 W. 160.00 feet to a point;
- (6) N. 45-18-45 W. 22.27 feet to a point;
- (7) S. 44-41-15 W. 110.00 feet to a point;
- (8) N. 45-18-45 W. 82.00 feet to a point;
- (9) S. 44-41-15 W. 160.00 feet to a point;
- (10) N. 45-18-45 W. 23.00 feet to a point;
- (11) S. 44-41-15 W. 199.65 feet to a point;
- (12) S. 44-41-15 W. 41.00 feet to a point;
- (13) S. 39-13-39 W. 55.15 feet to a point;
- (14) S. 38-14-18 W. 27.48 feet to a point;
- (15) S. 21-00-51 W. 30.32 feet to a point;
- (16) S. 20-33-51 W. 46.66 feet to a point;
- (17) S. 19-01-17 W. 461.00 feet to a point; and
- (18) S. 70-58-43 E. 85.00 feet to a point;

thence with the curve of a line having a radius of 25.00 feet for an arc length of 39.27 feet and a chord bearing N. 64-01-17 E. and chord distance 35.36 feet to a point; thence continuing a new line S. 71-22-38 E. 210.01 feet to a point in the rear line of Lot 28 St Andrews Place, Phase I, Map II, Map Book 33, Page 44, Cabarrus County Registry; thence with the rear line of St Andrews Place, Phase I, Map II, N. 19-01-17 E. 407.58 feet to the point of BEGINNING, containing 21.95 acres, more or less, as shown on a boundary survey of Phase III, BRANDON RIDGE SUBDIVISION, by Spratt & Brooks Land Surveying, Richard Boyd Brooks, P.L.S., dated October 18, 2002.

TRACT 4 (22.04 acres for Park Place Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the West side of Zion Church Road, bounded on the North by Windrose Subdivision, on the South by Robert Earl Morris, and on the West by Phillip W. Cline, and being more particularly described as follows:

BEGINNING at a point in the centerline of Zion Church Road, said point being about 1300 feet from Highway 601, and being a southeast front corner of Kristopher W. Widenhouse (Deed Book 2819, Page 86), and runs thence with the rear line of Widenhouse and Windrose, Phase III, N. 88-32-55 W. 639.08 feet to an iron, a rear corner of Lot 63, Windrose, in the line of Lot 64; thence with the line of Lot 64 of Windrose, S. 13-42-42 W. 61.19 feet to an iron, a rear corner of Lot 64, Windrose; thence continuing with Windrose Subdivision, N. 88-33-27 W. 1,323.94 feet to an iron in the line of Phillip W. Cline, a rear corner of Lot 16, Windrose, Phase I, Map Book 23, Page 81; thence with the line of Phillip W. Cline, S. 4-42-59 E. 853.99 feet to a point in Irish Buffalo Creek; thence with the line of Robert Earl Morris, N. 73-25-25 E. (passing an iron at 25.00 feet) for a total distance of 444.13 feet to an iron; thence continuing with the line of Morris, N. 67-35-47 E. 1196.61 feet to an iron in the rear line of Marie P. Greene, Trustee; thence with the rear line of Greene and Richard Burris, N. 40-54-42 E. 167.79 feet to an iron, a rear corner of Burris; thence with the line of Burris, S. 88-52-15 E. (passing an iron at 197.72 feet) for a total distance of 210.00 feet to a point; thence within Zion Church Road, N. 19-25-28 E. 164.99 feet to the point of BEGINNING, containing 22.04 acres, more or less, as shown on a boundary survey by Spratt & Brooks Land Surveying, Richard Boyd Brooks, P.L.S., dated July 23, 2002.

TRACT 5 (155.571 acres for Morrison Creek Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the North side of Zion Church Road, bounded on the North by T. W. Farlow (now or formerly), Melvin Green (now or formerly), and others, on the West by Colonial Hills Subdivision and others, and on the East by Whitehurst Partners, Phillip W. Cline, and others, and being more particularly described as follows:

BEGINNING at an existing iron within Zion Church Road, said iron being located N. 62-36-02 E. 694.70 feet from a nail in the centerline of the road intersection, and runs thence with the line of Colonial Hills Subdivision, Phase I, Maps 2, 3, & 4 and with the line of Pacajero Realty (now or formerly) N. 14-08-57 W. 2,662.04 feet to an iron, a corner of Pacajero Realty, LLC; thence with the line of Pacajero Realty, LLC, S. 83-42-57 E. 186.19 feet to a iron, a corner of T. W. Farlow (now or formerly); thence with the line of Farlow, S. 83-24-54 E. 540.85 feet to an iron, a corner of Farlow; thence continuing with the line of Farlow, N. 12-28-30 W. 514.33 feet to an iron; thence continuing with the line of Farlow, N. 89-51-03 E. 327.75 feet to an iron, a corner of Green; thence with the line of Green (now or formerly), N. 89-42-21 E. 473.60 to an iron within the sewer easement; thence continuing with the line of Green (now or formerly), N. 68-03-21 E. (passing an iron at 1,334.36 feet) for a total distance of

1,430.72 feet to a point in the line of Phillip W. Cline (now or formerly); thence with the line of Cline and the centerline of Irish Buffalo Creek the following courses and distances:

- (1) S. 42-38-21 W. 161.00 feet;
- (2) S. 06-41-59 E. 98.27 feet;
- (3) S. 19-51-00 E. 310.19 feet;
- (4) S. 08-39-56 E. 121.00 feet;
- (5) S. 28-47-24 W. 122.25 feet;
- (6) S. 48-48-04 W. 118.87 feet;
- (7) S. 24-15-14 W. 120.97 feet;
- (8) S. 48-01-38 W. 69.89 feet;
- (9) N. 83-43-26 W. 55.12 feet;
- (10) S. 18-42-48 W. 53.62 feet;
- (11) S. 52-16-45 W. 124.82 feet;
- (12) S. 15-04-29 W. 165.70 feet;
- (13) S. 21-55-55 W. 120.13 feet;
- (14) S. 06-08-25 W. 56.78 feet;
- (15) S. 66-04-06 E. 34.48 feet to a point;

thence S. 74-48-06 E. 207.44 feet to a point; thence S. 58-02-37 E. 111.34 feet to a point; thence S. 66-56-18 E. 209.70 feet to a point; thence N. 81-23-45 E. 158.61 feet to a point, a corner of Whitehurst Partners; thence with the line of Whitehurst Partners (now or formerly), S. 16-54-37 E. 807.50 feet an iron; thence continuing with the line of Whitehurst Partners and the Elma J. Green Estate, S. 03-09-16 W. (passing an iron at 209.86 feet) for a total distance of 319.96 feet to an iron; thence with the line of the Elma J. Green Estate, S. 10-28-49 E. 101.05 feet to an iron; thence continuing with the Elma J. Green Estate, S. 10-28-49 E. 31.33 feet to an iron at or near the centerline of Zion Church Road; thence within Zion Church Road, S. 62-00-07 W. 620.20 feet to an iron in the front line of John Willie Reid (now or formerly); thence with the line of Reid, within Zion Church Road, N. 83-01-04 W. 800.00 feet to a spike in the line of Bernard W. Moncur, Jr. (now or formerly); thence leaving Zion Church Road and with the line of Mildred R. Reid (now or formerly), N. 41-10-38 W. 177.37 feet to an iron; thence continuing with the line of Reid and others, S. 58-23-21 W. 1,243.49 feet to an iron, the point of BEGINNING, containing 155.571 acres, more or less, as survey and platted by Jackie G. Duncan, P.L.S., dated May 11, 2001.

SECTION 2. This act becomes effective June 30, 2004.

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law on the date it was ratified.

H.B. 1700

Session Law 2004-103

AN ACT TO EXTEND THE SUNSET ON THE DURHAM CITY ADDITIONAL MUNICIPAL VEHICLE TAX AND CONCERNING THE PURPOSES FOR WHICH THOSE FUNDS MAY BE EXPENDED.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2003-329 reads as rewritten:

"SECTION 4. Section 1 of this act is effective when it becomes law and expires ~~one~~ year-five years after that date. The remainder of this act is effective when it becomes law."

SECTION 2. Section 3 of S.L. 2003-329 reads as rewritten:

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

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law on the date it was ratified.

H.B. 1734

Session Law 2004-104

AN ACT TO ALLOW THE TOWN OF OCEAN ISLE BEACH TO IMPOSE A CANAL DREDGING FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Fee-Supported Canal Dredging District. – A municipality by resolution may create a fee-supported canal dredging district for all properties that are contiguous to a canal within the corporate limits.

SECTION 2. Imposition of Annual Fees. – A municipality may impose annual fees for the dredging of canals, both natural and concrete, within the corporate limits. The governing board shall establish the fees on or before July 1 each year.

SECTION 3. Fees. – The fees imposed by the municipality may not exceed the cost of providing for the dredging of the canals within the municipality. The fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system on the island.

SECTION 4. Billing of Fees. – The municipality may include a fee imposed under this section on the property tax bill for each parcel of property lying within the municipal limits on which the fee is imposed. Said fee shall be collected in the same manner as provided for in the General Statutes for the collection of ad valorem taxes, and remedies available by statute for the collection of taxes shall apply to the collection of the canal dredging fees.

SECTION 5. Use of Fees. – A municipality shall credit the fees collected within the district to a separate fund to be used only to pay the bill that is received for canal dredging. The governing board shall administer the fund to provide for the payment of canal dredging.

SECTION 6. Abolition of District. – Upon finding that there is no longer a need for a given fee-supported district, the governing board may repeal the resolution establishing the district and thus abolish the district.

SECTION 6.1. Capital Reserve Fund. – If a municipality establishes a capital reserve fund under Chapter 159 of the General Statutes to build up funds for the purpose of providing the service under this act, it may delay providing the service until sufficient funds have accumulated, but in no case to exceed five years.

SECTION 7. This act applies only within the municipal boundaries of the Town of Ocean Isle Beach.

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

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law on the date it was ratified.

S.B. 1060

Session Law 2004-105

AN ACT TO AUTHORIZE THE TOWN OF FRANKLIN TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Aldermen of the Town of Franklin 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 town 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 when furnished in furtherance of their nonprofit purpose.

SECTION 1.(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.

SECTION 1.(c) Distribution and use of tax revenue. – The Town of Franklin shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Franklin 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 Franklin 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 Franklin Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Aldermen adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Franklin 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 Board of Aldermen 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 the Town of Franklin shall be the ex officio finance officer of the Authority.

SECTION 2.(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, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Board of Aldermen on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Aldermen may require.

SECTION 3. City administrative provisions. – 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, Franklin, 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 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law on the date it was ratified.

S.B. 1181

Session Law 2004-106

AN ACT TO MODIFY THE ADMINISTRATIVE PROVISIONS OF THE ALLEGHANY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 162 of the 1991 Session Laws reads as rewritten:

"**Section 1.** Occupancy tax. (a) Authorization and scope. – The Alleghany County Board of Commissioners 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 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county 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 (i) ~~a business that offers to rent fewer than five units,~~ (ii) a summer camp for minors, or (iii) ~~by~~ a nonprofit charitable, educational, or religious organization.

(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 county. 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 county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. The county may require a taxpayer to attach to the form a copy of the taxpayer's most recent sales tax report filed with the Secretary of Revenue.~~

(c) ~~Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the fifteenth 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 fifteenth day of each month, prepare and render a return on a form prescribed by the county. 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 county 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. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~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.~~

(e) ~~Distribution and use of tax revenue. – Except as otherwise provided in this act, Alleghany County shall, on a quarterly basis, remit one-half of one hundred percent (100%) of the net proceeds of the occupancy tax to the Alleghany County Chamber of Commerce. The chamber of commerce shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Alleghany County and shall use the remainder for tourism-related expenditures. may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in Alleghany County through State, national, and international advertising and promotion. The chamber of commerce may use no more than one percent (1%) of the funds remitted to it under this subsection for administrative expenses. The chamber of commerce shall report quarterly and at the close of the fiscal year to the Alleghany~~

County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county 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 entity responsible for expending the net proceeds of the tax, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~The county shall retain the remaining net proceeds of the tax and use them only for tourist-related purposes, which may include construction and maintenance of public facilities and buildings, police protection, and emergency services. As used in this subsection, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.~~

~~(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 Allegheny County Board of Commissioners. 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. 1.1. Allegheny Tourism Development Authority. – (a) Appointment and Membership. – When the annual net proceeds of the occupancy tax exceed one hundred thousand dollars (\$100,000), the Allegheny Board of Commissioners shall adopt a resolution creating a county 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 filing 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 county, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to the 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 Alleghany County shall be the ex officio finance officer of the Authority.

Sec. 1.2. Duties. – If the board of commissioners establishes a Tourism Development Authority as provided in Section 1.1 of this act, then the Authority shall expend the net proceeds of the tax levied under this Act for the purposes provided in this Act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Sec. 1.3. Reports. – If the board of commissioners establishes a Tourism Development Authority as provided in Section 1.1 of this act, then the Authority shall report quarterly and at the close of the fiscal year to the Alleghany County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 2. This act is effective upon ratification."

SECTION 2. G.S. 153A-155 reads as rewritten:

"§ 153A-155. Uniform provisions for room occupancy taxes.

(a) **Scope.** – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) **Levy.** – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax 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.

(c) **Collection.** – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The 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 taxing county. 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 taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) **Administration.** – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county 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 taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

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

same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax 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 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of Averasboro in Harnett County."

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

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law on the date it was ratified.

S.B. 1343

Session Law 2004-107

AN ACT TO ANNEX TO THE CITY OF WHITEVILLE THE EXISTING DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY OF US HIGHWAYS 74/76 AND 701 AROUND THE OVERPASS AREA TO HELP ACCOMMODATE THE MAINTENANCE REQUIREMENTS OF THE INTERCHANGE LIGHTING PROJECT.

The General Assembly of North Carolina enacts:

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

Beginning at a point marked by an old iron (Number 221) on the Southern Right-of-Way line of U.S. Highway 74-76 By Pass, said Point of Beginning being the Northwestern corner of "Tract D" as shown on survey map entitled "SURVEY OF ANNEXED AREAS FOR CITY OF WHITEVILLE-AREAS C & D", dated July 09, 1991, and last revised March 30, 1993, by Soles & Walker, P.A., R.L.S. and being duly recorded in Plat Book 56 Page 15, at the Columbus County, N.C. Office of The Register of Deeds, running THENCE FROM SAID POINT OF BEGINNING and along the Southern Right-of-Way line of U.S. Highway 74-76 By Pass in a Westwardly direction to a point marked by a concrete Right-of-Way monument near Station 359+00, as shown on N.C.D.O.T. Highway Plans, Project No.6.4310019, as contained in the State Highway Plan Book at the Columbus County, N.C. Office of The Register of Deeds, said point lying 170.0' South of the center line of said U.S. Highway 74-76 By Pass; thence continuing along said Southern Right-of-Way South 69 degrees 53 minutes 04 seconds West, a distance of 100' to a new point in said Right-of-Way line; thence crossing said U.S. Highway 74-76 By Pass North 20 degrees 06 minutes 56 seconds West, a distance of 340.0' to a point in the Northern Right-of-Way line of said Highway; thence along the Northern Right-of-Way line of U.S. Highway 74-76 By Pass in an Eastwardly direction to a point where said Right-of-Way line intersects the Western

Right-of-Way line of U.S. Highway 701 By Pass; thence along the Western Right-of-Way line of U.S. Highway 701 By Pass, North 01 degrees 43 minutes 24 seconds West, a distance of 200.0' to a point on said Right-of-Way line; thence perpendicular to said U.S. Highway 701 By Pass in an Eastwardly direction crossing said By Pass to a point on the Eastern Right-of-Way line of said U.S. Highway 701 By Pass; thence along the Eastern Right-of-Way line of U.S. Highway 701 By Pass in a Southerly direction to a point where the Eastern Right-of-Way line intersects the Northern Right-of-Way line of U.S. Highway 74-76 By Pass; thence with Northern Right-of-Way line of U.S. Highway 74-76 By Pass in an Eastwardly direction to a point where said Northern Right-of-Way line intersects with the Western Right-of-Way line of U.S. Highway 701 Business; thence along the Western Right-of-Way line of U.S. Highway 701 Business, Northwardly a distance of 75.0' to a point in said Western Right-of-Way line; thence Eastwardly perpendicular to U.S. Highway 701 Business to a point in the Northern Right-of-Way line of U.S. Highway 74-76 By Pass; thence with the Northern Right-of-Way line of said By Pass in an Eastwardly direction approximately a distance of 6,600' where said Right-of-Way line intersects with the center line of an overhead CP&L power line easement; thence with the center line of said power line easement in a Southerly direction crossing U.S. Highway 74-76 By Pass to a point in the Southern Right-of-Way line of said Highway, said point being shown as an old iron (Number 233), the Northeasternmost corner of "Tract C4" as shown on aforementioned plat for the City of Whiteville, as recorded in Plat Book 56 Page 15; thence in a Westwardly direction along the Southern Right-of-Way line of U.S. Highway 74-76 By Pass, also along lines of the existing Corporate Limits of the City of Whiteville, as shown on aforementioned plat for the City of Whiteville, as recorded in Plat Book 56 Page 15, to the Point of Beginning, and being that certain tract lying within the Right-of-Way of U.S. Highway 74-76 By Pass, adjacent to and North of the existing Corporate Limits of Whiteville, N.C.

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

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law on the date it was ratified.

H.B. 1422

Session Law 2004-108

AN ACT TO PERMIT LAW ENFORCEMENT OFFICERS IN MINT HILL AND MUNICIPAL EMPLOYEES AND LAW ENFORCEMENT OFFICERS OF THE CITY OF KINGS MOUNTAIN TO OPERATE UNREGISTERED ALL-TERRAIN VEHICLES ON HIGHWAYS WITH SPEED LIMITS OF THIRTY-FIVE MILES PER HOUR OR LESS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-114.2. Law enforcement all-terrain vehicles permitted on highways with speed limits of 35 miles per hour or less.

Law enforcement officers enforcing the laws of the State may use all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or leased by the governmental agency, on public highways where the speed limit is 35 miles per hour or less. Law enforcement officers may operate all-terrain vehicles on nonfully controlled access

highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less."

SECTION 2. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-114.3. Law enforcement and municipal employee all-terrain vehicles permitted on highways with speed limits of 35 miles per hour or less.

Law enforcement officers enforcing the laws of the State and municipal employees may use all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or leased by the governmental agency, on public highways where the speed limit is 35 miles per hour or less. Law enforcement officers and municipal employees may operate all-terrain vehicles on nonfully controlled access highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less."

SECTION 3. Section 1 of this act applies to the Town of Mint Hill only. Section 2 of this act applies to the City of Kings Mountain only.

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

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law on the date it was ratified.

S.B. 1167

Session Law 2004-109

AN ACT TO CLARIFY THE LAWS ON THE POWERS OF CONDOMINIUM UNIT OWNERS' ASSOCIATIONS AND PLANNED COMMUNITY OWNERS' ASSOCIATIONS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO PERMIT ELECTRONIC NOTICES OF OWNERS' ASSOCIATION MEETINGS, TO AMEND THE SECRET PEEPING STATUTE, AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47C-1-102(a) reads as rewritten:

"(a) This Chapter applies to all condominiums created within this State after October 1, 1986. G.S. 47C-1-105 (Separate Titles and Taxation), 47C-1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 47C-1-107 (Eminent Domain), 47C-2-103 (Construction and Validity of Declaration and Bylaws), 47C-2-104 (Description of Units), 47C-2-121 (Merger or Consolidation of Condominiums), 47C 3 102(a)(1) through (6) and (11) through (16) (Powers of Unit Owners' Association), 47C-3-107.1 (Charges for Late Payment, Fines), 47C-3-111 (Tort and Contract Liability), 47C-3-112 (Conveyance or Encumbrance of Common Elements), 47C-3-116 (Lien for Assessments), 47C-3-118 (Association Records), and 47C-4-117 (Effect of Violation on Rights of Action; Attorney's Fees), and G.S. 47C-1-103 (Definitions), to the extent necessary in construing any of those sections, apply to all condominiums created in this State on or before October 1, 1986, ~~but those~~ 1986, unless the declaration expressly provides to the contrary. Those sections apply only with respect to events and circumstances occurring after October 1, 1986, and do not invalidate existing provisions of the declarations, bylaws, or plats or plans of those condominiums."

SECTION 2. G.S. 47C-3-102(a) reads as rewritten:

"(a) ~~Subject to the provisions of the declaration, Unless the declaration expressly provides to the contrary,~~ the association, even if unincorporated, may:

- (1) Adopt and amend bylaws and rules and regulations;
- (2) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners;
- (3) Hire and terminate managing agents and other employees, agents, and independent contractors;
- (4) Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the condominium;
- (5) Make contracts and incur liabilities;
- (6) Regulate the use, maintenance, repair, replacement, and modification of common elements;
- (7) Cause additional improvements to be made as a part of the common elements;
- (8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to G.S. 47C-3-112;
- (9) Grant easements, leases, licenses, and concessions through or over the common elements;
- (10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than limited common elements described in subsections 47C-2-102(2) and (4) and for services provided to unit owners;
- (11) Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines not to exceed one hundred fifty dollars (\$150.00) (G.S. 47C-3-107.1) for violations of the declaration, bylaws, and rules and regulations of the association;
- (12) Impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required by G.S. 47C-4-109, or statements of unpaid assessments;
- (13) Provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees and agents;
- (14) Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;
- (15) Exercise all other powers that may be exercised in this State by legal entities of the same types as the association; and
- (16) Exercise any other powers necessary and proper for the governance and operation of the association."

SECTION 3. G.S. 47F-1-102(c) reads as rewritten:

"(c) Notwithstanding the provisions of subsection (a) of this section, G.S. 47F 3 102(1) through (6) and (11) through (17) (Powers of owners' association), G.S. 47F-3-107(a), (b), and (c) (Upkeep of planned community; responsibility and assessments for damages), G.S. 47F-3-115 (Assessments for common expenses), and G.S. 47F-3-116 (Lien for assessments), apply to all planned communities created in this State before January 1, ~~1999~~ 1999, unless the articles of incorporation or the declaration expressly provides to the contrary. These sections apply only with respect to events and circumstances occurring on or after January 1, 1999, and do not invalidate

existing provisions of the declaration, bylaws, or plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies to all planned communities created in this State before January 1, 1999, to the extent necessary in construing any of the preceding sections."

SECTION 4. G.S. 47F-3-102 reads as rewritten:

"§ 47F-3-102. Powers of owners' association.

~~Subject to the provisions of the articles of incorporation or the declaration and the declarant's rights therein,~~Unless the articles of incorporation or the declaration expressly provides to the contrary, the association may:

- (1) Adopt and amend bylaws and rules and regulations;
- (2) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from lot owners;
- (3) Hire and discharge managing agents and other employees, agents, and independent contractors;
- (4) Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the planned community;
- (5) Make contracts and incur liabilities;
- (6) Regulate the use, maintenance, repair, replacement, and modification of common elements;
- (7) Cause additional improvements to be made as a part of the common elements;
- (8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to G.S. 47F-3-112;
- (9) Grant easements, leases, licenses, and concessions through or over the common elements;
- (10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than the limited common elements and for services provided to lot owners;
- (11) Impose reasonable charges for late payment of assessments and, after notice and an opportunity to be heard, suspend privileges or services provided by the association (except rights of access to lots) during any period that assessments or other amounts due and owing to the association remain unpaid for a period of 30 days or longer;
- (12) After notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the association (except rights of access to lots) for reasonable periods for violations of the declaration, bylaws, and rules and regulations of the association;
- (13) Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the declaration or statements of unpaid assessments;
- (14) Provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees, and agents;
- (15) Assign its right to future income, including the right to receive common expense assessments;
- (16) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association; and

- (17) Exercise any other powers necessary and proper for the governance and operation of the association."

SECTION 5. G.S. 47C-3-108 reads as rewritten:

"§ 47C-3-108. Meetings.

A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by unit owners having twenty percent (20%) or any lower percentage specified in the bylaws of the votes in the association. Not less than 10 nor more than 50 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit ~~owner~~owner, or sent by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer."

SECTION 6. G.S. 47F-3-108 reads as rewritten:

"§ 47F-3-108. Meetings.

A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by lot owners having ten percent (10%), or any lower percentage specified in the bylaws, of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each lot or to any other mailing address designated in writing by the lot ~~owner~~owner, or sent by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the lot owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer."

SECTION 7. G.S. 14-202 reads as rewritten:

"§ 14-202. Secretly peeping into room occupied by another person.

(a) Any person who shall peep secretly into any room occupied by another person shall be guilty of a Class 1 misdemeanor.

(a1) Unless covered by another provision of law providing greater punishment, any person who secretly or surreptitiously peeps underneath or through the clothing being worn by another person, through the use of a mirror or other device, 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 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)~~(a), ~~(a1)~~, 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), ~~(a1)~~, (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 8. 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)~~ G.S. 14-202(a), (a1), 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 9. Sections 7 and 8 of this act become effective December 1, 2004, and apply 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 6th day of July, 2004.

Became law upon approval of the Governor at 12:10 p.m. on the 17th day of July, 2004.

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, TO SET THE PUBLIC UTILITY AND INSURANCE REGULATORY FEES, TO EXTEND THE SUNSET ON THE LOW-INCOME HOUSING TAX CREDIT, TO CLARIFY THE SALES TAX INCENTIVES FOR MAJOR PROJECTS, TO MAINTAIN THE CURRENT SALES TAX RATES ON ELECTRICITY USED BY MANUFACTURERS, AND TO ESTABLISH FAMILY COURT FEES.

The General Assembly of North Carolina enacts:

PART 1. IRC UPDATE

SECTION 1.1. 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 ~~June 1, 2003~~, May 1, 2004, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 1.2. Notwithstanding Section 1.1 of this part, any amendments to the Internal Revenue Code enacted after June 1, 2003, that increase North Carolina taxable income for the 2003 taxable year become effective for taxable years beginning on or after January 1, 2004.

SECTION 1.3. Notwithstanding the time limitations of G.S. 105-266 and G.S. 105-266.1, a refund for an overpayment of tax resulting from a change in the law enacted by this part regarding the exclusion of gain on the sale or exchange of a principal residence by a member of the uniformed services or the Foreign Service of the United States is timely if a demand for the refund is filed on or before November 11, 2004.

SECTION 1.4. This part is effective when it becomes law.

PART 2. REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 2.1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2004.

SECTION 2.2. The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2004-2005 fiscal year is two hundred thousand dollars (\$200,000).

SECTION 2.3. This part becomes effective July 1, 2004.

PART 3. INSURANCE REGULATORY CHARGE

SECTION 3.1. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five percent (5%) for the 2004 calendar year.

SECTION 3.2. This part is effective when it becomes law.

PART 4. EXTEND LOW-INCOME HOUSING CREDIT SUNSET

SECTION 4.1. G.S. 105-129.45 reads as rewritten:

"§ 105-129.45. **Sunset.**

This Article is repealed effective January 1, ~~2006~~2010. The repeal applies to developments to which federal credits are allocated on or after January 1, ~~2006~~2010."

SECTION 4.2. G.S. 105-129.42 reads as rewritten:

"§ 105-129.42. Credit for low-income housing awarded a federal credit allocation on or after January 1, 2003.

- (a) Definitions. – The following definitions apply in this section:
 - (1) Qualified Allocation Plan. – The plan governing the allocation of federal low-income housing tax credits for a particular year, as approved by the Governor after a public hearing and publication in the North Carolina Register.
 - (2) Qualified North Carolina low-income housing development. – A qualified low-income project or building that is allocated a federal tax credit under section 42(h)(1) of the Code and is described in subsection (c) of this section.
 - (3) Qualified residential unit. – A housing unit that meets the requirements of section 42 of the Code.

(b) Credit. – A taxpayer who is allocated a federal low-income housing tax credit under section 42 of the Code to construct or substantially rehabilitate a qualified North Carolina low-income housing development is allowed a credit equal to a percentage of the development's ~~eligible~~qualified basis, as determined pursuant to ~~section 42(d)~~section 42 of the Code. For the purpose of this section, ~~eligible~~qualified basis is calculated based on the information contained in the carryover allocation and is not recalculated to reflect subsequent increases or decreases. No credit is allowed for a development that uses tax-exempt bond financing.

(c) Developments and Amounts. – The following table sets out the housing developments that are qualified North Carolina low-income housing developments and are allowed a credit under this section. The table also sets out the percentage of the development's ~~eligible~~qualified basis for which a credit is allowed. The designation of a county or city as Low Income, Moderate Income, or High Income and determinations of affordability are made by the Housing Finance Agency in accordance with the Qualified Allocation Plan in effect as of the time the federal credit is allocated. A change in the income designation of a county or city after a federal credit is allocated does not affect the percentage of the developer's ~~eligible~~qualified basis for which a credit is allowed. The affordability requirements set out in the chart apply for the duration of the federal tax credit compliance period. If in any year a taxpayer fails to meet these affordability requirements, the credit is forfeited under subsection (h) of this section.

Type of Development	Percentage of Basis for Which Credit Is Allowed
Forty percent (40%) of the qualified residential units are affordable to households whose income is fifty percent (50%) or less of area median income and the units are in a Low-Income county or city.	Thirty percent (30%)
Fifty percent (50%) of the qualified residential units are affordable to households whose income is fifty percent (50%) or less of the area median income and the units are in a Moderate-Income county or city.	Twenty percent (20%)
Fifty percent (50%) of the qualified residential units are affordable to households whose income is forty	Ten percent

percent (40%) or less of the area median income and the units are in a High-Income county or city. (10%)

Twenty-five percent (25%) of the qualified residential units are affordable to households whose income is thirty percent (30%) or less of the area median income and the units are in a High-Income county or city. Ten percent (10%)

(d) Election. – When a taxpayer to whom a federal low-income housing credit is allocated submits to the Housing Finance Agency a request to receive a carryover allocation for that credit, the taxpayer must elect a method for receiving the tax credit allowed by this section. A taxpayer may elect to receive the credit in the form of either a direct tax refund or a loan generated by transferring the credit to the Housing Finance Agency. Neither a direct tax refund nor a loan received as the result of the transfer of the credit is considered taxable income under this Chapter.

Under the direct tax refund method, a taxpayer elects to apply the credit allowed by this section to the taxpayer's liability under Article 4 of this Chapter. If the credit allowed by this section exceeds the amount of tax imposed by Article 4 for the taxable year, reduced by the sum of all other credits allowable, the Secretary must refund the excess. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before this credit. The provisions that apply to an overpayment of tax apply to the refundable excess of a credit allowed under this section.

Under the loan method, a taxpayer elects to transfer the credit allowed by this section to the Housing Finance Agency and receive a loan from that Agency for the amount of the credit. The terms of the loan are specified by the Housing Finance Agency in accordance with the Qualified Allocation Plan.

(e) Exception When No Carryover. – If a taxpayer does not submit to the Housing Finance Agency a request to receive a carryover allocation, the taxpayer must elect the method for receiving the credit allowed by this section when the taxpayer submits to the Agency federal Form 8609. A taxpayer to whom this subsection applies claims the credit for the taxable year in which the taxpayer submits federal Form 8609.

(f) Pass-Through Entity. – 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 Article does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming the credit allowed by this Article. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, the credit allowed under this Article does not affect the entity's payment of tax on behalf of its owners.

(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~~qualified basis.
- (2) Within 30 days after the date the development is placed in service.

(h) Forfeiture. – A taxpayer that receives a credit under this section must immediately report any recapture event under section 42 of the Code to the Housing Finance Agency. If the taxpayer or any of its owners are required under section 42(j) of the Code to recapture all or part of a federal credit with respect to a qualified North Carolina low-income development, the taxpayer forfeits the corresponding part of the credit allowed under this section. This requirement does not apply in the following circumstances:

- (1) When the recapture of part or all of the federal credit is the result of an event that occurs in the sixth or a subsequent calendar year after the calendar year in which the development was awarded a federal credit allocation.
- (2) The taxpayer elected to transfer the credit allowed by this section to the Housing Finance Agency.

(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 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 4.3. This part is effective when it becomes law.

PART 5. SALES TAX CLARIFICATION

SECTION 5.1. G.S. 105-164.14(j)(1) reads as rewritten:

"(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 qualified 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. Building materials, building supplies, fixtures, and equipment are qualified if they are installed in the construction of the facility. Purchases for subsequent repair, renovation, or equipment replacement are not qualified.

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.

..."

SECTION 5.2. This part becomes effective July 1, 2004, and applies to sales made on or after that date.

PART 6. MAINTAIN CURRENT SALES TAX RATES ON ELECTRICITY USED BY MANUFACTURERS

SECTION 6.1. G.S. 105-164.4(a)(1g) is repealed.

SECTION 6.2. G.S. 105-164.4(a)(1f)b. is reenacted.

SECTION 6.3. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(1h) The rate of seventeen-hundredths percent (0.17%) applies to the sales price of electricity sold to an aluminum smelting facility for use in connection with the operation of that facility and measured by a separate meter or measuring device."

SECTION 6.4. This part becomes effective October 1, 2004, and applies to sales of electricity made on or after that date. Section 6.3 of this part expires for sales made on or after October 1, 2007.

PART 7. FAMILY COURT FEES

SECTION 7.1. Article 28 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-314.1. Family court fees.

(a) The Administrative Office of the Courts may charge a uniform fee of not more than thirty dollars (\$30.00) per hour to persons receiving the services of a supervised visitation and exchange center through a family court program. The fees collected under this section may be used by the Director of the Administrative Office of the Courts to support the continued operation of supervised visitation and exchange centers which provide services to family court clients regarding domestic violence, substance abuse, mental illness, parental alienation, and other issues.

(b) The Director of the Administrative Office of the Courts may establish a procedure for persons to apply for a reduction in the fee, based upon the person's ability to pay as a result of indigence, status as a victim of domestic violence, or other circumstances."

SECTION 7.2. This part is effective when it becomes law.

PART 8. GENERAL PROVISIONS

SECTION 8.1. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does this act 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 8.2. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law upon approval of the Governor at 12:15 p.m. on the 17th day of July, 2004.

S.B. 486**Session Law 2004-111**

AN ACT TO PROHIBIT INSURANCE COMPANIES FROM USING CUSTOMER INQUIRIES TO TERMINATE A POLICY, TO REFUSE TO ISSUE OR RENEW A POLICY, OR TO SUBJECT 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:

"§ 58-36-115. Prohibitions on using inquiries to terminate a policy, refuse to issue or renew a policy, or to subject a policy to consent to rate.

An insurer writing residential real property insurance subject to this Article shall not terminate an existing policy or any coverage under an existing policy, refuse to write a policy, refuse to renew a policy, or subject a policy to consent to rate as specified in G.S. 58-36-30(b) based solely on either of the following:

- (1) An inquiry about policy provisions that does not result in a claim; or
- (2) A claim that was closed without payment, provided the notice of loss that was the subject of the claim was only an inquiry regarding policy provisions, and no claim for payment was requested by the insured or a third party."

SECTION 2. This act becomes effective October 1, 2004, and applies to policies issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law upon approval of the Governor at 12:31 p.m. on the 17th day of July, 2004.

H.B. 1469**Session Law 2004-112**

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO INITIATE OR CONTINUE CERTAIN DISEASE MANAGEMENT ACTIVITIES, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON THE RISING COST OF HEALTH CARE.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services shall take action to address the rising cost of health care provided under the State Medical Assistance Plan as follows:

- (1) Adopt contractual agreements with providers of services that require and reward use of evidence-based practice standards and guidelines for Medicaid and NC Health Choice.
- (2) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall:
 - a. Ensure collaboration between local management entities providing mental health services and Community Care of North Carolina providers that serve Medicaid enrollees diagnosed with depression, and
 - b. Require evidence-based practices for the treatment of psychotic illnesses.

- (3) The Division of Medical Assistance shall consider the following as it develops plans to improve the quality, utilization, and cost-effectiveness of the State's Medicaid program:
- a. New disease management initiatives that target such costly diseases or conditions as congestive heart failure, chronic lung disease, chronic kidney disease, sickle cell disease, and low birth weight.
 - b. Collaborate with the Division of Public Health and other community organizations to improve the coordination and implementation of key initiatives to address obesity, premature birth, and smoking cessation.
 - c. Collaborate with local management entities that provide mental health services to develop local systems and processes that enhance the ability of primary care physicians to care for nontargeted mental illness and substance abuse clients.
 - d. Use case management processes to improve the utilization and access to such community-based services as ancillary and in-home support services.
 - e. Investigate the use of incentives or technology to promote the effective use of evidence-based guidelines by Program participants.

The Department shall report on the progress of these activities to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services not later than March 1, 2005.

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

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law upon approval of the Governor at 12:32 p.m. on the 17th day of July, 2004.

H.B. 918

Session Law 2004-113

AN ACT TO INCREASE THE FEE FOR SERVICE OF PROCESS IN CIVIL CASES AND TO EARMARK THE INCREASE TO ENSURE TIMELY SERVICE OF PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-311 reads as rewritten:

"§ 7A-311. Uniform civil process fees.

(a) In a civil action or special proceeding, except for actions brought under Chapter 50B of the General Statutes, the following fees and commissions shall be assessed, collected, and remitted to the county:

- (1) a. For each item of civil process served, including summons, subpoenas, notices, motions, orders, writs and pleadings, the sum of ~~five dollars (\$5.00)~~ fifteen dollars (\$15.00). When two or more items of civil process are served simultaneously on one party, only one ~~five-dollar (\$5.00)~~ fifteen-dollar (\$15.00) fee shall be charged.

- b. When an item of civil process is served on two or more persons or organizations, a separate service charge shall be made for each person or organization. ~~If the process is served, or attempted to be served, by a city policeman, the fee shall be remitted to the city rather than the county. If the process is served, or attempted to be served by the sheriff, the~~The process fee shall be remitted to the county. This subsection shall not apply to service of summons to jurors.
- c. At least fifty percent (50%) of the fees collected pursuant to this subdivision shall be used by the county to ensure the timely service of process within the county, which may include the hiring of additional law enforcement personnel upon the recommendation of the sheriff.
- (2) For the seizure of personal property and its care after seizure, all necessary expenses, in addition to any fees for service of process.
- (3) For all sales by the sheriff of property, either real or personal, or for funds collected by the sheriff under any judgment, five percent (5%) on the first five hundred dollars (\$500.00), and two and one-half percent (2 1/2%) on all sums over five hundred dollars (\$500.00), plus necessary expenses of sale. Whenever an execution is issued to the sheriff, and subsequently while the execution is in force and outstanding, and after the sheriff has served or attempted to serve such execution, the judgment, or any part thereof, is paid directly or indirectly to the judgment creditor, the fee herein is payable to the sheriff on the amount so paid. The judgment creditor shall be responsible for collecting and paying all execution fees on amounts paid directly to the judgment creditor.
- (4) For execution of a judgment of ejectment, all necessary expenses, in addition to any fees for service of process.
- (5) For necessary transportation of individuals to or from State institutions or another state, the same mileage and subsistence allowances as are provided for State employees.

(b) All fees that are required to be assessed, collected, and remitted under subsection (a) of this section shall be collected in advance (except in suits in forma pauperis) except those contingent on expenses or sales prices. When the fee is not collected in advance or at the time of assessment, a lien shall exist in favor of the county on all property of the party owing the fee. If the fee remains unpaid it shall be entered as a judgment against the debtor and shall be docketed in the judgment docket in the office of the clerk of superior court.

(c) The process fees and commissions set forth in this section are complete and exclusive and in lieu of any and all other process fees and commissions in civil actions and special proceedings."

SECTION 2. This act becomes effective September 1, 2004, and applies to fees assessed or collected on or after that date.

In the General Assembly read three times and ratified this the 6th day of July, 2004.

Became law upon approval of the Governor at 2:00 p.m. on the 17th day of July, 2004.

AN ACT TO ESTABLISH THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMPACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 18.

"Virginia-North Carolina Interstate High-Speed Rail Compact.

"§ 136-220. Compact established.

Pursuant to the invitation in 49 U.S.C. § 24101 (Interstate Compacts), in which the United States Congress grants consent to states with an interest in a specific form, route, or corridor of intercity passenger rail service (including high-speed rail service) to enter into interstate compacts, there is hereby established the Virginia-North Carolina Interstate High-Speed Rail Compact.

"§ 136-221. Agreement.

The Commonwealth of Virginia and the State of North Carolina agree, upon adoption of this compact:

- (1) To study, develop, and promote a plan for the design, construction, financing, and operation of interstate high-speed rail service through and between points in the Commonwealth of Virginia and the State of North Carolina, and adjacent states.
- (2) To coordinate efforts to establish high-speed rail service at the federal, State, and local governmental levels.
- (3) To advocate for federal funding to support the establishment of high-speed interstate rail service within and through Virginia and North Carolina and to receive federal funds made available for rail development.
- (4) To provide funding and resources to the Virginia-North Carolina High-Speed Rail Compact Commission from funds that are or may become available and are appropriated for that purpose.

"§ 136-222. Commission established; appointment and terms of members; chairman; reports; commission funds; staff.

(a) Commission established. – The Virginia-North Carolina High-Speed Rail Compact Commission is hereby established as a regional instrumentality and a common agency of each signatory party, empowered in a manner hereinafter to carry out the purposes of the Compact.

(b) Members, terms. – The Virginia members of the Commission shall be appointed as follows: three members of the House of Delegates, appointed by the Speaker of the House of Delegates, and two members of the Senate, appointed by the Senate Committee on Rules. The North Carolina members of the Commission shall be composed of five members as follows: two members of the Senate appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, two members of the House of Representatives appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, and one appointed by the Governor.

(c) Chair. – The chair of the Commission shall be chosen by the members of the Commission from among its membership for a term of one year and shall alternate between the member states.

(d) Meetings and reports. – The Commission shall meet at least twice each year, at least once in Virginia and once in North Carolina, and shall issue a report of its activities each year.

(e) Funds. – The Commission may utilize, for its operation and expenses, funds appropriated to it therefore by the legislatures of Virginia and North Carolina, or received from federal sources.

(f) Expenses of Members. – Virginia members of the Commission shall receive compensation and reimbursement for expenses in accordance with the applicable laws of that state. North Carolina members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-31, 138-5, or 138-6, as appropriate.

(g) Staff. – Primary staff to the Commission shall be provided by the Virginia Department of Rail and Public Transportation and the North Carolina Department of Transportation."

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

In the General Assembly read three times and ratified this the 6th day of July, 2004.

Became law upon approval of the Governor at 2:05 p.m. on the 17th day of July, 2004.

H.B. 964

Session Law 2004-115

AN ACT TO AMEND THE LAW GOVERNING FURNITURE REQUIREMENT CONTRACTS FOR STATE AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-57.1 reads as rewritten:

"§ 143-57.1. Furniture requirements contracts.

(a) To ensure agencies access to sufficient sources of furniture supply and service, to provide agencies the necessary flexibility to obtain furniture that is compatible with interior architectural design and needs, to provide small and disadvantaged businesses additional opportunities to participate on State requirements contracts, and to restore the traditional use of multiple award contracts for purchasing furniture requirements, each State furniture requirements contract shall be awarded on a multiple award basis, subject to the following conditions:

- (1) Competitive, sealed bids must be solicited for the contract in accordance with Article 3 of Chapter 143 of the General Statutes unless otherwise provided for by the State Purchasing Officer pursuant to that Article. Bids shall be solicited on a historical weighted average of specific contract items and not on a single item within a class of items. Historical weighted average shall be based on information derived from the State's electronic procurement system, when available, or other available data.
- (2) Subject to the provisions of this section, bids shall be evaluated and the contract awarded in accordance with Article 3 of Chapter 143 of the General Statutes.

- (3) For each category of goods under each State requirements furniture contract, awards shall be made to at least three qualified vendors unless three qualified vendors are not available. Additionally, if the State Purchasing Officer determines that there are no qualified vendors within the three best qualified vendors who offer furniture manufactured or produced in North Carolina or who are incorporated in the State, the State Purchasing Officer shall expand the number of qualified vendors awarded contracts to as many qualified vendors as is necessary to include a qualified vendor who offers furniture manufactured or produced in North Carolina or who is incorporated in the State, but the State Purchasing Officer shall not be required to expand the number of qualified vendors to more than six qualified vendors. ~~three qualified vendors are not available or that it is in the best interest of the State to make fewer awards. The State Purchasing Officer, subject to the approval of the Board of Award, shall state his reasons in writing for making fewer awards and the written documentation shall be maintained as part of the bid file and subject to public inspection.~~ A vendor is qualified under this section if the vendor's products conform to the term contract specifications, the vendor is listed on the State's qualified products list, and the vendor submits a responsive bid.
- (4) An agency may purchase from any vendor certified on the contract but shall make the most economical purchase that it determines meets its needs, based upon price, compatibility, service, delivery, freight charges, and other factors that it considers relevant.

(b) For purposes of this section, "furniture requirements contract" means State requirements contracts for casegoods, classroom furniture, bookcases, ergonomic chairs, office swivel and side chairs, computer furniture, mobile and folding furniture, upholstered seating, commercial dining tables, and related items."

SECTION 2. This act becomes effective July 1, 2004, and applies to contracts advertised for bid on or after that date.

In the General Assembly read three times and ratified this the 7th day of July, 2004.

Became law upon approval of the Governor at 2:11 p.m. on the 17th day of July, 2004.

H.B. 1459

Session Law 2004-116

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE HOUSE INTERIM COMMITTEE ON PROVIDING AN APPROPRIATE EDUCATION FOR STUDENTS ON LONG-TERM SUSPENSION TO DIRECT THE STATE BOARD OF EDUCATION TO DETERMINE WHETHER TEACHER PREPARATION PROGRAMS SHOULD REQUIRE COURSES IN DIVERSITY TRAINING, ANGER MANAGEMENT, CONFLICT RESOLUTION, AND CLASSROOM MANAGEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall determine whether teacher preparation programs should require courses in diversity training, anger

management, conflict resolution, and classroom management. The State Board shall report its findings and recommendations to the Joint Legislative Education Oversight Committee by December 15, 2004.

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

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law upon approval of the Governor at 2:17 p.m. on the 17th day of July, 2004.

S.B. 732

Session Law 2004-117

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO IMPLEMENT A PILOT PROGRAM UNDER WHICH A COUNTY MAY DESIGNATE AN AREA AS A NEW URBAN WATERFRONT UNDER THE COASTAL AREA MANAGEMENT ACT OF 1974.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that:

- (1) Development in coastal areas should occur in a manner that will conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values.
- (2) New urban waterfront development, which combines residential, commercial, and recreational uses in a publicly accessible, pedestrian-friendly traditional neighborhood community that preserves natural shorelines and other critical areas, has the potential to benefit the environment and quality of life in the area in which the development occurs.
- (3) The greatest potential benefit of new urban waterfront development lies in coastal counties that do not border the Atlantic Ocean and that are less densely populated than counties that, because of their proximity to ocean beaches, have experienced greater economic development.

SECTION 2. For purposes of this act:

- (1) "Commission" means the Coastal Resources Commission.
- (2) "New urban waterfront area" means an area designated for development that includes a mixture of residential and commercial uses, recreational areas, and facilities for governmental or other civic purposes; provides for pedestrian access to residential, commercial, civic and recreational areas; and incorporates open space for recreational and other public purposes.

SECTION 3.(a) The Commission shall implement a pilot program under which a county may designate an area as a new urban waterfront area under the Coastal Area Management Act of 1974. The purpose of the pilot is to determine the water quality and other environmental impacts from a new urban waterfront area development and to evaluate the benefits from the development to the area in which the development is located. To implement the pilot, the Commission shall consider and act on a request from a county to approve an amendment to its land-use plan that designates a new urban waterfront area outside the corporate limits of any municipality. For purposes of the

pilot program, a request to approve an amendment to a land-use plan that designates a new urban waterfront area shall be approved by the Commission for only one county. The new urban waterfront area shall be located in a county that does not border the Atlantic Ocean and that has a population density of not more than 150 persons per square mile as determined by the 2000 census by the Bureau of the Census. The new urban waterfront area shall not exceed 500 acres and shall not include more than one mile of natural shoreline. The new urban waterfront area may be located in an area that drains to existing public trust waters or may be located in an area that drains to an artificially created body of water accessible to the public by navigation from public trust waters. The new urban waterfront area shall not be located in an area that, at the time that the Commission approves the amendment to the county land-use plan that designates the new urban waterfront area, drains directly to waters:

- (1) Classified by the Environmental Management Commission as Outstanding Resource Waters, Nutrient Sensitive Waters, High Quality Waters, or SA Waters.
- (2) Designated by the Marine Fisheries Commission as primary or secondary nursery areas.
- (3) Designated by the Wildlife Resources Commission or the Department of Agriculture and Consumer Services as critical habitat areas.

SECTION 3.(b) A developer, pursuant to the Coastal Area Management Act of 1974 and rules adopted by the Commission to implement the Act, may submit an application for a major development permit for development in a new urban waterfront area. The new urban waterfront area development shall be subject to all of the following:

- (1) The development shall be located in a new urban waterfront area designated in a county land-use plan approved by the Commission as provided in subsection (a) of this section.
- (2) The new urban waterfront area development shall be accessible to the general public and shall provide for public access to the shoreline consistent with the county's public access plan.
- (3) The new urban waterfront area development shall be served by centrally operated water, sewer, and stormwater management systems. Wastewater and stormwater management systems for the new urban waterfront area development shall not discharge directly to estuarine or public trust waters.
- (4) The new urban waterfront area development shall comply with all standards adopted by the Commission for development in coastal wetlands, public trust areas, and estuarine waters except as those standards are modified for urban waterfronts in rules adopted by the Commission. Development within a designated new urban waterfront area shall be authorized to the same extent and shall be subject to the same use standards and permitting requirements as development within areas designated as urban waterfronts under the rules of the Commission, except that the new urban waterfront area development shall comply with the 30-foot buffer requirement set out in 15A NCAC 7H.0209(d)(10) along all natural shorelines.
- (5) The developer of the new urban waterfront area development shall submit an application for a National Pollutant Discharge Elimination System (NPDES) permit for stormwater management and shall obtain

the permit prior to commencement of any construction of a new urban waterfront area development. The National Pollutant Discharge Elimination System (NPDES) permit for stormwater management shall address the six minimum control measures required by 40 Code of Federal Regulations § 122.34(b) (1 July 2003 Edition). The National Pollutant Discharge Elimination System (NPDES) permit for stormwater management shall apply to the new urban waterfront area and to all other areas within the same common plan of development. The application for the National Pollutant Discharge Elimination System (NPDES) permit for stormwater management shall be reviewed by two independent experts approved by the Department. This review shall be conducted at the expense of the applicant. The permit shall require that the permittee establish and maintain water quality monitoring systems and conduct water quality monitoring at the locations and in the detail and frequency specified by the permit. The permittee shall submit the water quality samples collected pursuant to the permit to a laboratory certified by the Division of Water Quality of the Department of Environment and Natural Resources. The permittee shall report the data collected to the Division of Water Quality of the Department of Environment and Natural Resources.

- (6) In addition to the requirements of subdivision (5) of this subsection, the developer shall comply with any other applicable requirements related to stormwater management.
- (7) If the new urban waterfront area development authorized by this act as built within six years of the date of issuance of the major development permit fails to include commercial development, civic development, and open space substantially in accordance with the development proposed in the application for the major development permit, the developer shall provide mitigation for encroachment into riparian buffers that would otherwise be required under standards adopted by the Commission for development on public trust and estuarine shorelines.

SECTION 4. In order to determine whether additional new urban waterfront area developments should be allowed, and whether rules governing the developments should be modified, the Coastal Resources Commission shall evaluate the impacts on water quality and other environmental impacts from the new urban waterfront area development authorized by this act and evaluate the costs and benefits from the development to the area in which the development is located. The Coastal Resources Commission shall annually report its interim findings and recommendations, including any legislative proposals, to the Environmental Review Commission beginning 1 October 2005. The Coastal Resources Commission shall report its final findings and recommendations, including any legislative proposals, to the Environmental Review Commission no later than 1 October 2010.

SECTION 5. This act is effective when it becomes law. Sections 1 through 3 of this act expire 1 July 2010.

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law upon approval of the Governor at 2:21 p.m. on the 17th day of July, 2004.

S.B. 444

Session Law 2004-118

AN ACT TO ENSURE THAT EDUCATIONAL MATERIALS ARE PROVIDED SO THAT SCHOOLS PROVIDE INFORMATION TO PARENTS AND GUARDIANS CONCERNING MENINGOCOCCAL MENINGITIS AND INFLUENZA AND THEIR VACCINES.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "Garrett's Law".

SECTION 2. G.S. 115C-47 is amended by adding a new subdivision to read:

"(44) To Ensure that Schools Provide Information Concerning Meningococcal Meningitis and Influenza and Their Vaccines. – Local boards of education shall ensure that schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 3. G.S. 115C-238.29F(a) reads as rewritten:

"(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 4. G.S. 115C-548 reads as rewritten:

"§ 115C-548. Attendance; health and safety regulations.

Each private church school or school of religious charter shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance: ~~Provided, however, that such attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.~~

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to these schools so that they can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places

where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 5. G.S. 115C-556 reads as rewritten:

"§ 115C-556. Attendance; health and safety regulations.

Each qualified nonpublic school shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance: ~~Provided, however, that such attendance~~ so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to each qualified nonpublic school so that the school can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 6. G.S. 115C-565 reads as rewritten:

"§ 115C-565. Requirements exclusive.

No school which complies with this Part shall be subject to any other provision of law relating to education except requirements of law respecting immunization. The Division of Nonpublic Education, Department of Administration, shall provide to home schools information about meningococcal meningitis and influenza and their vaccines. This information may be provided electronically or on the Division's Web page. The information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children."

SECTION 7. The Division of Public Health, Department of Health and Human Services, shall make available sample educational materials that can be provided to parents and guardians. The Division shall provide these materials to (i) local school administrative units for public schools other than charter schools, (ii) the Department of Public Instruction for charter schools, and (iii) the Division of Nonpublic Education, Department of Administration, for nonpublic schools including home schools. These materials may be provided electronically.

SECTION 8. This act becomes effective July 1, 2004, beginning with the 2004-2005 school year.

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law upon approval of the Governor at 2:26 p.m. on the 17th day of July, 2004.

H.B. 1547

Session Law 2004-119

AN ACT TO ALLOW THE TOWN OF CHAPEL HILL TO PURCHASE
ADDITIONAL LAND FOR OPEN SPACE OUTSIDE ITS JURISDICTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-403 reads as rewritten:

"§ 160A-403. Counties or cities authorized to acquire and reconvey real property.

(a) Any county or city in the State may acquire by purchase, gift, grant, bequest, devise, lease, or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right of or to real property within its respective jurisdiction, when it finds that the acquisition is necessary to achieve the purposes of this Part. Any county or city may also acquire the fee to any property for the purpose of conveying or leasing the property back to its original owner or other person under covenants or other contractual arrangements that will limit the future use of the property in accordance with the purposes of this Part, but when this is done, the property may be conveyed back to its original owner but to no other person by private sale.

(b) When a city finds that the acquisition of an interest in undeveloped real property located outside the city's jurisdiction but within the county where the city is located is necessary to achieve the purposes of this Part, the city may acquire the property by any of the means allowed under subsection (a) of this section other than eminent domain."

SECTION 2. This act applies to the Town of Chapel Hill only and G.S. 153A-15 does not apply to any actions taken by the Town of Chapel Hill under this act.

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

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law on the date it was ratified.

H.B. 1348

Session Law 2004-120

AN ACT TO AUTHORIZE CAMDEN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. (a) **Authorization and Scope.** – The Camden County Board of Commissioners may levy a room occupancy tax of up to six percent (6%) 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 county 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 when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – Camden County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Camden 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 Camden County 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 county 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 these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Camden Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county 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 county and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners 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 Camden County shall be the ex officio finance officer of the Authority.

SECTION 2.(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, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 3. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of Averagesboro in Harnett County."

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

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law on the date it was ratified.

H.B. 1671**Session Law 2004-121**

AN ACT REPEALING ARTICLE VIII OF THE CHARTER OF THE TOWN OF MOORESVILLE, SO THAT THE GENERAL LAW ON STREET AND SIDEWALK IMPROVEMENTS WILL APPLY.

The General Assembly of North Carolina enacts:

SECTION 1. Article VIII of the Charter of the Town of Mooresville, as enacted by Section 1 of S.L. 1975-239, entitled "Street and Sidewalk Improvements", is repealed in its entirety.

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

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law on the date it was ratified.

H.B. 1520**Session Law 2004-122**

AN ACT TO AUTHORIZE GASTON COUNTY TO LEVY A TEMPORARY HALF CENT LOCAL SALES TAX FOR ECONOMIC DEVELOPMENT AND TOURISM PROJECTS, IF APPROVED BY THE VOTERS OF THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Levy. – If the majority of those voting in a special election held pursuant to this act vote for the levy of the taxes, the board of commissioners of Gaston County may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

SECTION 2. Vote. – The board of commissioners of Gaston County may direct the county board of elections to conduct a special election on the question of whether to levy local one-half percent (1/2%) sales and use taxes in the county as provided in this Article. The election must be held on November 2, 2004, and must be held in accordance with the procedures of G.S. 163-287.

SECTION 3. Ballot Question. – The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this act must be in the following form:

" FOR AGAINST

One half percent (1/2%) temporary local sales and use taxes, in addition to the current local sales and use taxes, to be used only for economic development projects and tourism projects."

SECTION 4. Administration. – Except as provided in this act, the adoption, levy, collection, administration, and repeal of the additional taxes authorized by this act must be in accordance with Article 39 of Chapter 105 of the General Statutes. A tax levied under this act does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B.

A tax levied under this act does not apply to construction materials purchased to fulfill a lump-sum or unit price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to this tax.

SECTION 5. Distribution. – The Secretary of Revenue must monthly distribute to Gaston County the net proceeds of the tax levied under this act. Gaston

County must monthly distribute the following percentages of the net proceeds among the following municipalities. Gaston County must retain the balance of the net proceeds.

Municipality	Percentage
City of Belmont	3.5
City of Bessemer City	2.05
City of Cherryville	2.15
Town of Cramerton	1.2
Town of Dallas	1.35
City of Gastonia	50
City of High Shoals	0.3
City of Kings Mountain	0.3
Town of Lowell	1.05
Town of McAdenville	.25
City of Mount Holly	3.9
Town of Ranlo	0.9
Town of Spencer Mountain	0.02054
Town of Stanley	1.25

SECTION 6. Use. – A unit of local government may spend the proceeds of the tax levied under this act only for economic development projects, tourism projects, or both.

SECTION 7. Expiration. – A tax levied under this act expires eight years after the effective date of its levy. Gaston County's authorization to levy a tax under this act expires eight years after the effective date of the first tax the county levies under this act, even if the tax has not remained in effect for the entire eight-year period. Gaston County cannot extend the temporary tax unless authorized to do so by an act of the General Assembly subject to another referendum.

The expiration of a tax pursuant to this act does not affect the rights or liabilities of the county, a taxpayer, or another person arising under the expired tax; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the expired tax before its expiration.

If the Secretary receives a valid request for a refund of a tax levied under this act after the tax has expired and the net proceeds have been distributed, the Secretary must draw the refund from Gaston County's share of the net proceeds of the tax it levies under Article 39 of this Chapter.

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

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law on the date it was ratified.

H.B. 142

Session Law 2004-123

AN ACT TO AUTHORIZE DARE COUNTY TO LEVY AN ADDITIONAL ONE PERCENT SALES AND USE TAX THE PROCEEDS OF WHICH SHALL BE USED FOR BEACH NOURISHMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 45.

"Local Government Sales and Use Tax for Beach Nourishment.**"§ 105-525. Short title.**

This Article is the Local Government Sales and Use Tax for Beach Nourishment Act.

"§ 105-526. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.

"§ 105-527. Definitions.

The following definitions apply in this Article:

- (1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program, or which have otherwise been authorized by the General Assembly, along the North Carolina shorelines and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property and transportation routes. The term includes expenditures for the following:
 - a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies.
 - b. The nonfederal share of the costs required to construct these projects.
 - c. The costs associated with providing enhanced public beach access.
 - d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.
- (2) Net proceeds. – Defined in G.S. 105-472.

"§ 105-528. Levy.

The board of commissioners of a county may, by resolution, levy one percent (1%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Before adopting a resolution under this section, the board of commissioners must give at least 10 days' public notice of its intent to adopt the resolution and must hold a public hearing on the issue of adopting the resolution.

"§ 105-529. Administration of taxes.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B.

"§ 105-530. Expiration.

A tax levied under this Article expires eight years after the effective date of its levy. A county's authorization to levy a tax under this Article expires eight years after the effective date of the first tax a county levies under this Article, even if the tax has not remained in effect for the entire eight-year period. The expiration of a tax pursuant to

this Article does not affect the rights or liabilities of a county, a taxpayer, or another person arising under the expired tax; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the expired tax before its expiration.

If the Secretary receives a valid request for a refund of a tax levied under this Article after the tax has expired and the net proceeds have been distributed, the Secretary shall draw the refund from the taxing county's share of the net proceeds of the tax it levies under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, as applicable.

"§ 105-531. Distribution and use of taxes.

(a) Distribution. – The Secretary shall, on a monthly basis, distribute to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county under this Article. 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.

(b) Use. – A county may use the net proceeds of a tax levied under this Article only for beach nourishment."

SECTION 2. A tax levied under Article 45 of Chapter 105 of the General Statutes, as enacted by this part, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 45 of Chapter 105 of the General Statutes.

SECTION 3. Section 2 of Chapter 449 of the 1985 Session Laws, as amended by Chapter 177 of the 1991 Session Laws, S.L. 2001-347, and S.L. 2001-439, reads as rewritten:

"Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply in this act. In addition, the following definitions apply in this act:

- (1) Net proceeds. Gross proceeds less the cost to the county of administering and collecting the tax.
- (2) Prepared food and beverages. The term has the same meaning as the term "prepared food" in G.S. 105-164.3.
- (3) Beach nourishment. The term has the same meaning as in G.S. 105-527. ~~The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program, or which have otherwise been authorized by the General Assembly, along the North Carolina shorelines and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property and transportation routes. The term includes expenditures for the following:~~
 - a. ~~Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or~~

- ~~otherwise permitted by all appropriate federal and State agencies;~~
- ~~b. The nonfederal share of the costs required to construct these projects;~~
 - ~~e. The costs associated with providing enhanced public beach access; and~~
 - ~~d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences."~~

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

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law on the date it was ratified.

H.B. 1414

Session Law 2004-124

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL APPROPRIATIONS ACT OF 2003 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATIONS OF THE STATE.

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 2004."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1.(a) 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 adjusted for the fiscal year ending June 30, 2005, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2004-2005 fiscal year.

Current Operations – General Fund**2004-2005****EDUCATION**

Community Colleges System Office	31,612,319
Department of Public Instruction	122,269,724
University of North Carolina – Board of Governors	56,386,840

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Office of the Secretary	5,319,802
Division of Aging	3,151,000
Division of Blind Services/Deaf/HH	(30,000)
Division of Child Development	7,925,000
Division of Education Services	10,873
Division of Facility Services	(450,000)
Division of Medical Assistance	(88,729,913)
Division of Mental Health	(5,962,273)
NC Health Choice	6,600,000
Division of Public Health	8,226,581
Division of Social Services	(5,561,948)
Division of Vocational Rehabilitation Services	(1,479,294)
Total	(70,980,172)

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	100,538
Department of Commerce	
Commerce	(452,263)
Commerce State-Aid	1,950,000
NC Biotechnology Center	5,000,000
Rural Economic Development Center	1,144,000
Department of Environment and Natural Resources	
Environment and Natural Resources	1,021,957
Clean Water Management Trust Fund	0
Department of Labor	364,216

JUSTICE AND PUBLIC SAFETY

Department of Correction	(11,309,897)
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Department of Crime Control and Public Safety	3,912,627
Judicial Department	6,741,918
Judicial Department – Indigent Defense	11,000,000
Department of Justice	754,467
Department of Juvenile Justice and Delinquency Prevention	1,734,069
GENERAL GOVERNMENT	
Department of Administration	2,476,330
Office of Administrative Hearings	90,476
Department of State Auditor	(200,000)
Office of State Controller	(99,429)
Department of Cultural Resources	
Cultural Resources	14,944,032
Roanoke Island Commission	0
State Board of Elections	2,197,412
General Assembly	(921,318)
Office of the Governor	
Office of the Governor	42,702
Office of State Budget and Management	401,427
OSBM – Reserve for Special Appropriations	2,213,382
Housing Finance Agency	1,725,000
Department of Insurance	
Insurance	4,062,654
Insurance – Volunteer Safety Workers' Compensation	(1,734,000)
Office of Lieutenant Governor	29,657
Department of Revenue	(1,661,794)
Rules Review Commission	(3,185)
Department of Secretary of State	(110,389)
Department of State Treasurer	
State Treasurer	424,708
State Treasurer – Retirement for Fire and Rescue Squad Workers	665,000

TRANSPORTATION

Department of Transportation	(228,056)
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RESERVES, ADJUSTMENTS AND DEBT SERVICE

Reserve for 2003 Compensation Increases	(900,000)
Reserve for 2004 Compensation Increases	260,800,000
Reserve for LEO Salary Adjustments	2,007,385
Reserve for State Health Plan	(900,000)
Reserve for Retiree Health Benefits	(6,900,000)
Reserve for Contributions to Benefit Plans	(6,230,100)
Reserve for Teachers' and State Employees' Retirement System	9,180,000
Reserve for Consolidated Judicial Retirement System	339,000
Job Development Incentive Grants (JDIG) Reserve	4,500,000
Mental Health, Developmental Disabilities and Substance Abuse Services Trust Fund	10,000,000
Reserve for Senate Bill 100 Compliance	(11,813,949)
Debt Service	
General Debt Service	(78,268,480)
Federal Reimbursement	460,432

TOTAL CURRENT OPERATIONS – GENERAL FUND 367,839,240

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) Section 2.2.(a) of S.L. 2003-284 is repealed. The General Fund availability used in adjusting the 2004-2005 budget is shown below:

	2004-2005
Unappropriated Balance Remaining from FY 2003-04	145,664,254
Projected Reversions from FY 2003-2004	150,000,000
Projected Over Collections from FY 2003-2004	235,100,000
Additional FY 2003-2004 Appropriations (HB 1352)	(64,100,000)
Year-End Unreserved Credit Balance	466,664,254
Credit to Savings Reserve	(116,666,064)
Credit to Repairs and Renovations Reserve Account	(78,797,361)

Beginning Unreserved Credit Balance FY 2004-2005 271,200,829

Revenues Based on Existing Tax Structure 14,755,690,500

Nontax Revenues

Investment Income	86,020,000
Judicial Fees	136,730,000
Disproportionate Share	100,000,000
Insurance	53,900,000
Other Nontax Revenues	261,517,607
Highway Trust Fund Transfer	242,586,830
Highway Fund Transfer	16,166,400
Subtotal Nontax Revenues	896,920,837

Total General Fund Availability 15,923,812,166

Adjustments to Availability: 2004 Session

HB 1430 (Internal Revenue Code Conformity) Conference Report	(2,600,000)
HB 1303 (Reduce Privilege and Excise Taxes) Conference Report	(2,950,000)
Sales Tax Refunds and Exemptions	(5,200,000)
Research and Development Tax Credit	(4,500,000)
Qualified Business Investment Tax Credit	0
Tobacco Payments Decline – Tobacco Trust Fund	(5,000,000)
Transfer from Fire Safety Loan Fund	250,000
Transfer from Veteran's Home Trust Fund	500,000
Transfer from Office of State Controller, Budget Code 241602,180,000	
HB 1264 (Finance Vital Projects)	
Conference Report, Reimburse Debt Service	5,380,000
Adjust Transfer from Insurance Regulatory Fund	4,062,654
Adjust Transfer from Treasurer's Office	424,708
Subtotal Adjustments to Availability: 2004 Session	(7,452,638)

Revised General Fund Availability for 2004-2005 Fiscal Year 15,916,359,528

**Less: Total General Fund Appropriations
for 2004-2005 Fiscal Year (15,916,359,528)**

Unappropriated Balance Remaining 0

SECTION 2.2.(b) Subsections 2.2(b), 2.2(c), and 2.2(f) of S.L. 2003-284 read as rewritten:

"**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, year,~~ the sum of ~~forty million dollars (\$40,000,000)~~ thirty-five million dollars (\$35,000,000) 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, year.~~

"**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,~~ fiscal year, 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.~~year.

Notwithstanding G.S. 143-16.4(a1) and G.S. 147-86.30, 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 2004-2005 fiscal year, the sum of twenty-five million dollars (\$25,000,000) 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 2004-2005 fiscal year. Any funds remaining after the transfer to the General Fund shall be used in accordance with G.S. 147-86.30.

"**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)~~ seventy-eight million seven hundred ninety-seven thousand three hundred sixty-one dollars (\$78,797,361) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, ~~2003-2004.~~ This subsection becomes effective June 30, ~~2003-2004.~~"

SECTION 2.2.(c) Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2004-2005 fiscal year to be used in accordance with G.S. 143-15.3A.

SECTION 2.2.(d) Section 6.23(a1) of S.L. 2003-284, as enacted by Section 2 of S.L. 2003-283, is repealed.

SECTION 2.2.(e) Notwithstanding G.S. 165-48, five hundred thousand dollars (\$500,000) of the cash balance remaining in the NC Veterans Home Trust Fund (Budget Code 64106, Fund 6771) on July 1, 2004, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These funds shall be used to support the General Fund appropriation for the 2004-2005 fiscal year for the start-up cost of the State Veterans Nursing Home in Salisbury.

SECTION 2.2.(f) Notwithstanding G.S. 116-44.8, two hundred fifty thousand dollars (\$250,000) of the cash balance remaining in the Fire Safety Loan Fund (Budget Code 63414, Fund 6510) on July 1, 2004, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These funds shall be used to support General Fund appropriations for the 2004-2005 fiscal year.

SECTION 2.2.(g) On June 30, 2004, the Office of Information and Technology shall transfer two million one hundred eighty thousand dollars (\$2,180,000) from the Information Technology service Budget Code 74660 to the Office of State Controller's Budget Code 24160. On July 1, 2004, the State Controller shall transfer two million one hundred eighty thousand dollars (\$2,180,000) from Budget Code 24160, to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for information technology programs and activities across State government for the 2004-2005 fiscal year. This subsection becomes effective June 30, 2004.

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

SECTION 3.1. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the fiscal year ending June 30, 2005, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Fund appropriations for the 2004-2005 fiscal year.

Current Operations – Highway Fund	2004-2005
Transportation Administration	\$ 1,227,072
Operations	–
Match for Federal Aid	–
Construction Program:	
State Secondary System	410,000
Small Construction	7,000,000
Contingency Funds	5,000,000
Spot Safety Improvements	–
Access and Public Service Roads	–
Maintenance	24,672,591
Capital Improvements	–
Ferry Operations	1,000,000
State Aid to Municipalities	410,000
State Aid to Railroads	–
State Aid for Public Transportation	(436,479)
Asphalt Plant Cleanup	–
Governor's Highway Safety Program	–
Division of Motor Vehicles	1,218,921
Appropriations to Other State Agencies	1,030,489
Reserves and Transfers	17,842,991
Total	\$59,375,585

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund appropriations availability used in developing modifications to the 2004-2005 Highway Fund budget contained in this act is shown below.

Highway Fund Budget Reform Statement	2004-2005
Beginning Credit Balance	–
Estimated Revenue	\$ 1,390,900,000
Estimated Reversions	–
Total Highway Fund Availability	\$ 1,390,900,000

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**HIGHWAY TRUST FUND APPROPRIATIONS**

SECTION 4.1. Appropriations from the Highway Trust Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the fiscal year ending June 30, 2005, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Trust Fund appropriations for the 2004-2005 fiscal year.

Current Operations – Highway Trust Fund	2004-2005
Intrastate System	(7,488,716)
Urban Loops	(3,028,125)
Aid to Municipalities	(785,741)
Secondary Roads	236,830
Administrative Expense	(439,735)
Transfer to General Fund	66,513
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	(11,572,000)

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, 2005, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01. Community Action Agencies	\$ 15,266,973
02. Limited Purpose Agencies	848,165
03. NC Interagency Council for Homeless Programs	262,472
04. Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	848,165
TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 17,225,775

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 Services for the Blind	3,105,711

04.	Division of Facility Services	426,836
05.	Division of Aging – Home and Community Care Block Grant	1,840,234
06.	Child Care Subsidies	6,269,309
07.	Division of Vocational Rehabilitation – United Cerebral Palsy	71,484
08.	State administration	1,693,368
09.	Child Medical Evaluation Program	238,321
10.	Adult day care services	2,155,301
11.	Comprehensive Treatment Services Program	422,003
12.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
13.	Division of Vocational Rehabilitation Services – Easter Seals Society	116,779
14.	UNC-CH CARES Program for training and consultation services	247,920
15.	Office of the Secretary – Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
16.	Division of Social Services – Child Caring Agencies	1,500,000
17.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services – Developmentally Disabled Waiting List for services	5,000,000
18.	Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	145,819
19.	Division of Facility Services – Mental Health Licensure	213,128

20.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 57,894,616
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	\$ 6,307,035
02.	Provision of community-based services to children	3,921,991
03.	Comprehensive Treatment Services Program for Children	1,500,000
04.	Administration	568,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		\$ 12,297,937
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	\$ 20,441,082
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	4,816,378
04.	Child Substance Abuse Prevention	5,835,701
05.	Provision of services to children and adolescents	4,940,500
06.	Juvenile Services – Family Focus	851,156
07.	Allocation to the Division of Public Health for HIV/STD Risk Reduction Projects	383,980
08.	Allocation to the Division of Public Health for HIV/STD Prevention by County Health Departments	209,576
09.	Allocation to the Division of Public Health for the Maternal and Child Health Hotline	37,779
10.	Administration	2,596,307
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		\$ 48,181,983
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
01.	Child care subsidies	\$158,518,189
02.	Quality and availability initiatives	17,946,038
03.	Administrative expenses	7,163,654
04.	Transfer from TANF Block Grant for child care subsidies	81,292,880
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		\$264,920,761
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		
01.	Work First Cash Assistance	\$119,841,508
02.	Work First County Block Grants	94,653,315

03.	Transfer to the Child Care and Development Fund Block Grant for child care subsidies	81,292,880
04.	Child Care Subsidies for TANF Recipients	34,512,238
05.	Child Welfare Workers for local DSS	12,452,391
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	2,749,642
08.	Domestic Violence Services for Work First Families	1,200,000
09.	After-School Services for At-Risk Children YWCA Central Carolinas Youth Development Programs \$176,000	2,249,642
10.	Division of Social Services – Administration	400,000
11.	Child Welfare Training	2,550,000
12.	TANF Automation Projects	592,500
13.	Boys and Girls Clubs	1,000,000
14.	Work Central Career Advancement Center	550,000
15.	WCH-Teen Pregnancy Prevention	1,500,000
16.	Transfer to Social Services Block Grant for Child Caring Institutions	1,500,000
17.	Special Children's Adoption Fund	3,000,000
18.	NC Fast Implementation	2,717,298
19.	Maternity Homes	838,000
20.	Individual Development Accounts	180,000
21.	Reduction of Out-of-Wedlock Births	1,000,000

22.	After-School Programs for At-Risk Youth in Middle Schools	500,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		\$369,779,414
MATERNAL AND CHILD HEALTH BLOCK GRANT		
01.	Healthy Mothers/Healthy Children Block Grants to Local Health Departments	9,565,205
02.	High-Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments, Office of Women's Health	2,207,273
03.	Adolescent Pregnancy Prevention Coalition of NC	150,000
04.	Office of Minority Health	159,000
05.	Services to Children With Special Health Care Needs	4,280,987
06.	School Health Nurse Initiative	3,250,000
	School Health Nurse Initiative Reserve 2005-2006	3,250,000
07.	Administration and Program Support	2,434,303
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		\$ 25,296,768
PREVENTIVE HEALTH SERVICES BLOCK GRANT		
01.	Statewide Health Promotion Programs	\$2,772,294
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.	Administration and Program Support	699,092
05.	Osteoporosis Task Force Operating Costs	150,000

TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT \$3,964,317

GENERAL PROVISIONS

SECTION 5.1.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department and each plan shall include the following:

- (1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
- (2) A delineation of the proposed State and local administrative expenditures.
- (3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.
- (4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.
- (5) A projection of current year expenditures by program or activity.
- (6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 5.1.(c) Changes in Federal Fund Availability. – If the United States Congress reduces or increases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase or decrease proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating a decrease in federal fund availability, the Department shall not eliminate the funding for a program or activity appropriated in this section. In allocating an increase in federal fund availability, the Department shall not propose funding for new programs or activities not appropriated in this section or increase administrative expenditures.

Prior to allocating the change in federal fund availability, the proposed allocation must be approved by the Office of State Budget and Management. If the Department adjusts the allocation of any Block Grant due to changes in federal fund availability, then a report shall be made to the Joint Legislative Committee on Governmental Operations, 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 5.1.(d) All changes to the budgeted allocations to the Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management and a report shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. All changes to the budgeted allocations to the Block Grant shall be reported immediately 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 5.1.(e) The Department of Health and Human Services shall develop a monitoring and oversight plan for all recipients, both public and private, and

subrecipients of the federal Block Grant funding. The plan shall be modeled after the Department's performance contracting initiative and include the following:

- (1) Performance standards for recipients.
- (2) Financial audit standards for non-State entities equivalent to the requirements in G.S. 143-6.1 for non-State entities receiving State funds.
- (3) Means for collecting performance data from recipients.
- (4) Any other information necessary for monitoring and overseeing the use of Block Grant funding.

The Department shall provide the plan to the Fiscal Research Division by January 1, 2005.

SECTION 5.1.(f) The Department of Health and Human Services 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 positions funded from federal Block Grants. The report shall include the following for each Block Grant:

- (1) All State positions currently funded through the Block Grant, including permanent, temporary, and time-limited positions.
- (2) Budgeted salary and fringe benefits for each position.
- (3) Identify the percentage of Block Grant funds used to fund each position.

The report shall be submitted no later than December 1, 2004.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

SECTION 5.1.(g) Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

COMMUNITY SERVICE BLOCK GRANT

SECTION 5.1.(h) The Department of Health and Human Services 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 the activities and expenditures of the North Carolina Interagency Council for Coordinating Homeless Programs no later than April 1, 2005.

MENTAL HEALTH BLOCK GRANT

SECTION 5.1.(i) 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 2004-2005 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 2004-2005 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.(j) The Department of Health and Human Services shall contract with the University of North Carolina at Chapel Hill for the purpose of providing psychology student stipends in the amount of fifty thousand dollars (\$50,000) for the 2004-2005 fiscal year. Twenty-five thousand dollars (\$25,000) of this contract shall be paid from the Mental Health Block Grant.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 5.1.(k) 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 for the operations of the Medical Child Care Pilot.

SECTION 5.1.(l) 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.(m) 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.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)

SECTION 5.1.(n) 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 2004-2005 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 5.1.(o) The sum of two million seven hundred forty-nine thousand six hundred forty-two dollars (\$2,749,642) 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 2004-2005 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.(p) 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 2004-2005 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 support 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, 2004. 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, 2004, 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, 2004. 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, 2005, 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 5.1.(q) 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 fund 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, 2005, on its progress in complying with this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(r) The sum of twelve million four hundred fifty-two thousand three hundred ninety-one dollars (\$12,452,391) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2004-2005 fiscal year shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services.

SECTION 5.1.(s) The sum of two million five hundred fifty thousand dollars (\$2,550,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2004-2005 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.(t) 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.(u) The sum of three million dollars (\$3,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2004-2005 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.(v) The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section 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 2004-2005 fiscal year shall be allocated to the State Private Child Caring Agencies Fund.

SECTION 5.1.(w) 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.(x) The sum of one hundred eighty thousand dollars (\$180,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for the 2004-2005 fiscal year shall be used for Individual Development Accounts (IDA) for TANF-eligible individuals. The Social Services Commission shall adopt rules for the implementation of this subsection. 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 the implementation of the program and the use of the funds no later than May 1, 2005.

SECTION 5.1.(y) The sum of five hundred fifty thousand dollars (\$550,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant shall be transferred to Work Central, Inc. Work Central, Inc. shall report on the number of people served and the services received as a result of the receipt of funds. The report shall contain expenditure data, including the amount of funds used for administration and direct training. The report shall also include the number of people who have been employed as a direct result of services provided by Work Central, Inc., including the length of employment in the new position. The Department of Health and Human Services shall evaluate the program and ensure that services provided are not duplicative of local employment security commissions in the nine counties served by Work Central, Inc. The evaluation report

shall be submitted 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 no later than May 1, 2005.

SECTION 5.1.(z) The sum of two million seven hundred seventeen thousand two hundred ninety-eight dollars (\$2,717,298) in this section appropriated to the Department of Health and Human Services in the TANF Block Grant shall be used to implement the component of N.C. Fast that specifically deals with the creation and implementation of a statewide automated child welfare information system. The statewide system shall be implemented in compliance with federal regulations in order to avoid any potential payback of funds due to noncompliance. The Department of Health and Human Services shall report on its compliance with this subsection 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 no later than January 1, 2005.

SECTION 5.1.(z1) The sum of five hundred thousand dollars (\$500,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant shall be used to expand after-school programs for at-risk children attending middle school. The Department shall develop and implement a grant program to award funds to community-based programs demonstrating the capacity to reach children at risk of teen pregnancy and school dropout. These funds shall not be used for training or administration at the State level. All funds shall be distributed to community-based programs, focusing on those communities where similar programs do not exist in middle schools. 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 progress in complying with this subsection no later than May 1, 2005.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 5.1.(aa) 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 2004-2005 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.

SECTION 5.1.(bb) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

SECTION 5.1.(cc) Of the funds budgeted in the Maternal and Child Health Block Grant, six million five hundred thousand dollars (\$6,500,000) shall be used for a school nurse funding initiative. Of these funds, the sum of three million two hundred fifty thousand dollars (\$3,250,000) shall be allocated for the 2004-2005 fiscal year, and the sum of three million two hundred fifty thousand dollars (\$3,250,000) shall be placed in a reserve for the 2005-2006 fiscal year. The Department of Health and Human Services, Division of Public Health, in conjunction with the Department of Public Instruction, shall provide funds to communities to hire school nurses. The program will fund approximately 65 time-limited nurses over a two-year period. The criteria shall include determining the areas in the greatest need for school nurses with

the greatest inability to pay for these nurses. Among other criteria, consideration shall also be given to (i) the current nurse-to-student ratio; (ii) the economic status of the community; and (iii) the health needs of area children.

There shall be no supplanting of local or Title I funds with these block grant funds. Communities shall maintain their current level of effort and funding for school nurses. No block grant funds shall be used for funding nurses for State agencies. All funding shall be used for direct services.

The Department of Health and Human Services shall report on the use of funds allocated under this section by December 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.

NER BLOCK GRANTS

SECTION 5.2.(a) Appropriations from federal block grant funds are made for fiscal year ending June 30, 2005, 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 – 2005 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 and Small Business or Entrepreneurial Assistance; 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) 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.(g) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

- (1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.
- (2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made, the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

PART VI. GENERAL PROVISIONS

PREFERENCE GIVEN TO AMERICAN-MADE PRODUCTS

SECTION 6.1. Article 3 of Chapter 143 of the General Statutes is amended by adding the following new section:

"§ 143-59.1A. Preference given to products made in United States.

If the Secretary of Administration or a State agency cannot give preference to North Carolina products or services as provided in G.S. 143-59, the Secretary or State agency shall give preference, as far as may be practicable and to the extent permitted by State law, federal law, and federal treaty, to products or services manufactured or produced in the United States. Provided, however, that in giving such preference no sacrifice or loss in price or quality shall be permitted; and provided further, that preference in all cases shall be given to surplus products or articles produced and manufactured by other State departments, institutions, or agencies which are available for distribution."

EXTEND LOCAL GOVERNMENT HOLD HARMLESS

SECTION 6.3. 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 August 15, 2003, and every August 15 through August 15, 2004, 2012, 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 every May 1 through May 1, 2004, 2012, the 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.

(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 through January 31, 2005, 2013, the amount distributed under this section for the current fiscal year."

COMMISSION ON STATE PROPERTY/SALE OF STATE PROPERTY

SECTION 6.4.(a) Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 78.

"Commission on State Property.

"§ 143-735. Commission established; purpose; membership.

(a) There is created the Commission on State Property. The Commission shall be located administratively within the Department of Administration but shall carry out its statutory powers and duties independently of the Department of Administration.

(a1) The purpose of the Commission is to identify State-owned real property that is (i) both surplus and suitable for sale on the private market or (ii) suitable for sale and leaseback and to make recommendations concerning the disposition of the property. The Commission shall consult with real estate salespersons and brokers, real estate appraisers, and other knowledgeable persons in determining its recommendations.

(b) The Commission shall consist of 16 members appointed as follows:

(1) Eight members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, including one of whom shall be designated as cochair.

(2) Eight members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, including one member who shall be designated as cochair.

The members appointed to the Commission shall be chosen from among individuals who have the ability and commitment to promote and fulfill the purposes of the Commission, including individuals who have expertise in the fields of real estate, property development, and other related fields. The appointing authorities shall each consider appointing at least one real estate salesperson or broker and one real estate appraiser to the Commission.

No member of the Commission may be a member of the Senate or of the House of Representatives. No member or a person of the member's immediate family or business with which the member is associated shall be involved in or benefit from any sale of State-owned property under this Article.

(c) The terms of four of the initial members appointed pursuant to subdivision (b)(1) of this section and four of the initial members appointed pursuant to subdivision (b)(2) of this section shall be for one year. The terms of the remainder of the initial members shall be for two years. Subsequent terms of all members shall be for two years.

Initial terms shall commence on August 15, 2004.

(d) The Commission shall meet at least once a quarter and may meet at other times upon the call of the cochairs. A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

(e) The Commission cochairs may establish subcommittees for the purpose of making special studies pursuant to its duties and may appoint non-Commission members to serve on each subcommittee as resource persons. Resource persons shall be voting members of the subcommittee and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6.

(f) The Commission shall hire its professional and clerical staff.

(g) The Commission shall adopt rules for the administration of this Article, including rules regarding the participation of real estate salespersons and real estate brokers.

"§ 143-736. Duties of the Commission.

(a) The Commission on State Property shall:

- (1) Adopt guidelines to ensure the participation of real estate salespersons and real estate brokers in its work and to encourage real estate salespersons and real estate brokers to examine the State's real property inventory to ascertain which properties are either surplus and are suitable for sale or are suitable for sale and leaseback.
- (2) Notify each licensed real estate salesperson and real estate broker in the State that the Commission will consider recommendations from real estate salespersons and brokers on State real property that is suitable for sale or sale and leaseback.
- (3) Consider recommendations from real estate salespersons and brokers and the general public. Notwithstanding any other provision of this Article, no real estate salesperson or broker may recommend more than five properties.
- (4) Develop recommendations on State property that is (i) both surplus and suitable for sale or (ii) suitable for sale and leaseback and report its recommendations to the Department of Administration, the Governor, and the Joint Legislative Commission on Governmental Operations. The Department of Administration shall consider the recommendations of the Commission on State Property and respond to them within 60 days of receiving them. In its response, the Department shall either concur with the recommendations or set out the reasons it does not concur with them.

If the Department concurs that the property shall be sold or sold and leased back, the process for proceeding with the sale or sale and leaseback shall be the same as for other sales of State property.

If the Department does not concur, the Commission shall recommend the sale of the property or the sale and leaseback of the property to the Governor and the Council of State. If the Governor and the Council of State approve the sale, the Department of Administration shall complete the transaction.

In the instance of a proposed sale or sale and leaseback that is undertaken pursuant to this section, the Department shall enter into an exclusive contract with the real estate salesperson or broker who

recommended the sale or leaseback of the property to obtain an offer acceptable to the Department to sell or sell and leaseback the property. In the event the property was recommended by more than one real estate salesperson or broker, the Commission shall allocate the marketing responsibilities of the salespersons or brokers recommending the property and determine the allocation of the brokerage fees. A contract with any real estate salesperson or broker under this Article shall not exceed six months in duration and shall include the conditions for receipt of brokerage fees set forth in G.S. 143-737. After the expiration of the exclusive contract, the property shall be sold or sold and leased back in the same manner as other real property of the State."

"§ 143-737. Brokerage fees.

Notwithstanding any other provision of Chapter 146 of the General Statutes, a real estate salesperson or broker responsible for making a recommendation for the sale or leaseback of State property that has been adopted by the Commission and recommended to the Department pursuant to G.S. 143-736 shall be entitled to brokerage fees only if all of the following conditions are met:

- (1) The real estate salesperson or broker is licensed by the North Carolina Real Estate Commission.
- (2) The transaction closes.
- (3) The brokerage fees do not exceed those customary in the industry and are consistent with rules adopted by the Commission."

SECTION 6.4.(b) Of the funds appropriated to the Department of Administration for the 2004-2005 fiscal year, the Director of the Budget shall transfer two hundred thousand dollars (\$200,000) to the Commission on State Property established in subsection (a) of this section. Notwithstanding the provisions of G.S. 146-30, the first two hundred thousand dollars (\$200,000) of the net proceeds of dispositions of property that would otherwise be deposited with the State Treasurer and credited to the General Fund shall be used to offset the transfer of funds from the Department of Administration to the Commission on State Property.

SECTION 6.4.(c) Section 6.8(d) of S.L. 2003-284 is repealed.

SECTION 6.4.(d) Section 6.8(b) of S.L. 2003-284, as amended by Section 3 of S.L. 2003-283, 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."~~

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, as amended by Section 6.5(a) of S.L. 2003-284, reads as rewritten:

"SECTION 6.14.(b) ~~Effective October 1, 2004,~~ May 1, 2005, 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, as amended by Section 6.5(b) of S.L. 2003-284, reads as rewritten:

"SECTION 6.14.(h) Subsection (b) of this section becomes effective ~~October 1, 2004,~~ May 1, 2005. Except as provided in subsection (c) of this section, the remainder of this section is effective when it becomes law."

JDIG APPROPRIATION STRUCTURE

SECTION 6.12.(a) Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-15.3E. JDIG Reserve Fund.

(a) The State Controller shall establish a reserve in the General Fund to be known as the JDIG Reserve. Funds from the JDIG Reserve shall not be expended or transferred except in accordance with G.S. 143B-437.63.

(b) It is the intent of the General Assembly to appropriate funds annually to the JDIG Reserve established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year of the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52."

SECTION 6.12.(b) Part 2G of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-437.63. JDIG Program cash flow requirements.

Notwithstanding any other provision of law, grants made through the Job Development Investment Grant Program, including amounts transferred pursuant to G.S. 143B-437.61, shall be budgeted and funded on a cash flow basis. The Office of State Budget and Management shall periodically transfer funds from the JDIG Reserve Fund established pursuant to G.S. 143-15.3E to the Department of Commerce in an amount sufficient to satisfy grant obligations and amounts to be transferred pursuant to G.S. 143B-437.61 to be paid during the fiscal year."

REVISE REPORT OF BUDGET DIRECTOR

SECTION 6.19. Section 6.2A of S.L. 2003-284 reads as rewritten:

"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~~, no later than January 15, 2005. 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."

SPECIAL FUNDS, FEDERAL RECEIPTS, APPROPRIATIONS

SECTION 6.20. Section 6.1 of S.L. 2003-284 reads as rewritten:

"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."~~

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

SECTION 6.22. Section 6.4 of S.L. 2003-284 reads as rewritten:

~~"SECTION 6.4.(a)~~**SECTION 6.4.** 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 and for the 2004-2005 fiscal year may be used for purposes related to the Base Realignment and Closure Act ~~(BRAC)~~; (BRAC), including allocations for individual community efforts; and
- (2) Up to two hundred fifty thousand dollars (\$250,000) for the 2003-2004 fiscal year and for the 2004-2005 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)."

AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS

SECTION 6.23. Notwithstanding G.S. 143-34.1(a1), a department, institution, or other agency of State government may establish receipt-supported positions authorized in this act upon approval by the Director of the Budget. The Director, if necessary, may establish a receipt-supported position pursuant to this section at an annual salary amount different from the salary amount set out in this act if (i) funds are available from the proposed funding source and (ii) the alternative salary amount remains within the established salary range grade identified for the job classification of the affected receipt-supported position established in this act. The Director shall not change the job classifications or increase the number of receipt-supported positions specified in this act without prior consultation with the Joint Legislative Commission on Governmental Operations.

REPORTING OF NON-STATE ENTITIES

SECTION 6.24. 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~~ non-State entity 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. For purposes of this section, the term "non-State entity" means a firm, organization, corporation, partnership, association, institution, unit

of local government, or any other organization that is not a State agency, department, or institution. 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~~ non-State entity other than a unit of local government that receives a grant of State funds from a State agency, department, or institution.

The State shall not disburse State funds appropriated by the General Assembly to any grantee or collected by the State for use by any grantee unless that 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.

(a1) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds.

(b) State Agency Responsibilities. – A State agency that receives State funds and then disburses the State funds to a grantee 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, the funding source of each grant, 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.
- (6) Ensure funds are spent in accordance with the purposes for which they were granted and hold the grantees accountable for the legal and appropriate expenditure of State grant funds.

(7) Provide for adequate oversight and monitoring to prevent the misuse of State funds.

(b1) Grantee Responsibilities. – A grantee that receives a grant of State funds shall:

(1) Ensure funds are spent in accordance with the purposes for which they were granted and be accountable for the legal and appropriate expenditure of State grant funds.

(2) Maintain reports, records, and other information to properly account for the expenditure of all State grant funds received by the grantee and to make the reports, records, and other information available to the grantor State agency or the State Auditor for oversight, monitoring, and evaluation purposes.

(3) Hold any non-State entity to which the grantee provides a grant of State funds accountable for the legal and appropriate expenditure of State grant funds.

(4) Adhere to the reporting requirements mandated by 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 must file annually with the State Auditor and 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 and the description of activities and accomplishments shall be in the ~~form~~ formats, including electronic filings, required by the State Auditor and provided to the grantee by the disbursing agency.

(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 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 Auditor and 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. The description of activities and accomplishments shall be in a format, including electronic filings, required by the State Auditor.

(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. Grantees shall ensure that work papers in the possession of their auditors are available to the State Auditor and provide the work papers upon request. Audit work papers furnished by an auditor of a grantee are not public records and are exempt from G.S. 132-1."

AUTHORIZE ACQUISITION OF OPTIONS FOR SITE DEVELOPMENT AND AUTHORIZE CONSULTANT CONTRACTS FOR RECRUITMENT

SECTION 6.26.(a) G.S. 143B-437.02(b) reads as rewritten:

"(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. The Department may use the funds in the fund only for the following purposes:

- (1) For site development in accordance with this section.
- (2) To acquire options and hold options for the purchase of land in accordance with subsection (m) of this section."

SECTION 6.26.(b) G.S. 143B-437.02 is amended by adding a new subsection to read:

"(m) Options. – The Department of Commerce may acquire options and hold options for the purchase of land for an anticipated industrial site if all of the following conditions are met:

- (1) The options are necessary to provide a large, regional industrial site that cannot be assembled by local governments.
- (2) The acquisition of the options is approved by the Committee."

SECTION 6.26.(c) G.S. 143B-431(b) reads as rewritten:

"(b) The Department of Commerce is authorized to establish and provide for the operation of North Carolina nonprofit corporations for any of the following purposes:

- (1) To aid to achieve the purpose of aiding the development of small businesses.
- (2) To businesses and to achieve the purposes of the United States Small Business Administration's 504 Certified Development Company Program.
- (3) To acquire options and hold options for the purchase of land under G.S. 143B-437.02."

SECTION 6.26.(d) G.S. 143B-431 is amended by adding a new subsection to read:

"(b1) The Department of Commerce is authorized to contract for the preparation of proposals and reports in response to requests for proposals for location or expansion of major industrial projects."

WILLIAM FRIDAY INSTITUTE FOR HIGHER EDUCATION LEADERSHIP

SECTION 6.28.(a) The General Assembly makes the following findings:

- (1) There is a serious and continuing need for systematic education and training and education within The University of North Carolina to prepare men and women to perform effectively in progressively responsible positions of administrative leadership in colleges and universities in North Carolina and the nation.
- (2) The Board of Governors of The University of North Carolina (UNC) and the staff in the Office of the President are in agreement that The University of North Carolina must provide a mechanism by which talented faculty and staff within the UNC system can move into administrative positions.
- (3) A significant component of increasing the strength of The University of North Carolina is increasing the administrative acumen of its faculty, department chairs, deans, and other administrators to prepare them for leadership positions.
- (4) Historically, academic administrators moved into their positions directly from the faculty, but the complexities of leadership make such changes nearly impossible today.
- (5) Business and industry focus on succession planning, climate surveys, and leadership development, but universities have been slower to respond to the need to develop talent within the organization.
- (6) Some universities have developed leadership programs, and the best of these programs nationally are those that are responsive to the culture of the institution or system.
- (7) Establishing an institute for higher education leadership development will help change the current pattern within the UNC system by providing ongoing professional development for faculty and administrators on UNC campuses.

- (8) Faculty and administrators will have opportunities to learn "best practices" from their colleagues as well as from national experts in key areas, and models will be provided that can be transferred back to the campuses.
- (9) Administrative internships on campuses and at the Office of the President will provide aspiring administrators opportunities to experience new environments and to learn leadership skills through observation and participation.
- (10) It is critical that The University of North Carolina provide opportunities for faculty within the system to advance professionally without having to leave North Carolina.

SECTION 6.28 (b) The Board of Governors of The University of North Carolina shall establish the William Friday Institute for Higher Education Leadership (the "Institute"). The Board of Governors of The University of North Carolina shall also establish an advisory board for the Institute.

SECTION 6.28.(c) The purpose of the Institute is to enable students, faculty, and administrators on the campuses of The University of North Carolina to explore and validate their interest in and fitness for careers in academic administration and to gain skills, insight, information, contacts, and experience through ongoing professional leadership development programs.

LIMIT USE OF IMPERVIOUS PARKING SURFACES FOR SALE OF NURSERY STOCK

SECTION 6.29.(a) G.S. 143-214.7 is amended by adding a new subsection to read:

"(d1) A retail merchant shall not use more than 400 square feet of impervious surface area within the portion of the merchant's premises that is designed to be used for vehicular parking for the display and sale of nursery stock, as that term is defined by the Board of Agriculture pursuant to G.S. 106-423. This subsection shall not apply to a retail merchant that either:

- (1) Collects and treats stormwater on-site using a treatment system that is designed to remove at least eighty-five percent (85%) of total suspended solids. For purposes of this subdivision, a treatment system includes, but is not limited to, a filtration system or a detention system.
- (2) Collects and stores stormwater for reuse on-site for irrigation or other purposes.
- (3) Collects and discharges stormwater to a local or regional stormwater collection and treatment system."

SECTION 6.29.(b) G.S. 143-215.6A(a) is amended by adding a new subdivision to read:

"(11) Violates or fails to act in accordance with G.S. 143-214.7(d1)."

SECTION 6.29.(c) This section becomes effective January 1, 2005, and applies only to a retail merchant that first opens a retail premises for business on or after that date or that submits an application for a building permit for the construction or renovation of a retail premises after that date.

FUNDS FOR FARMLAND PRESERVATION PROJECTS

SECTION 6.31.(a) Notwithstanding G.S. 113A-253, for the 2004-2005 fiscal year only, the Board of Trustees of the Clean Water Management Trust Fund 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.

SECTION 6.31.(b) The Department of Agriculture and Consumer Services shall prepare a master plan for farmland preservation in North Carolina. The Department shall review the Farmland Preservation Enabling Act and other conservation and rural and economic development programs in developing a master plan to preserve rural landscapes and promote working farms as a base for the economic, environmental, and social interests of rural North Carolina. No later than March 31, 2005, the Department shall report its findings and recommendations to the chairs of the Senate Committee on Agriculture, Environment, and Natural Resources and the House of Representatives Agriculture Committee.

EXPANSION OF THE SBI CRIME LAB

SECTION 6.32. There is hereby established a capital construction project to expand the crime laboratory of the State Bureau of Investigation in Raleigh. Notwithstanding any other provision of law, the Director of the Budget shall use up to four million five hundred thousand dollars (\$4,500,000) in funds that were unspent and unencumbered upon the completion of capital projects, including funds in a project reserve fund, for this capital construction project.

PART VII. PUBLIC SCHOOLS

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2004-2005 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 2004-2005 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, 2004, 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 2004-2005 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.

2004-2005 Monthly Salary Schedule
"A" Teachers

<u>Years of Experience</u>	<u>"A" Teachers</u>	<u>NBPTS Certification</u>
0	\$2,542	N/A
1	\$2,584	N/A

2	\$2,628	N/A
3	\$2,783	\$3,117
4	\$2,923	\$3,274
5	\$3,056	\$3,423
6	\$3,185	\$3,567
7	\$3,288	\$3,683
8	\$3,336	\$3,736
9	\$3,385	\$3,791
10	\$3,435	\$3,847
11	\$3,484	\$3,902
12	\$3,535	\$3,959
13	\$3,585	\$4,015
14	\$3,638	\$4,075
15	\$3,692	\$4,135
16	\$3,747	\$4,197
17	\$3,802	\$4,258
18	\$3,860	\$4,323
19	\$3,918	\$4,388
20	\$3,976	\$4,453
21	\$4,038	\$4,523
22	\$4,099	\$4,591
23	\$4,164	\$4,664
24	\$4,228	\$4,735
25	\$4,293	\$4,808
26	\$4,359	\$4,882
27	\$4,427	\$4,958
28	\$4,497	\$5,037
29	\$4,568	\$5,116
30+	\$4,568	\$5,116

2004-2005 Monthly Salary Schedule
"M" Teachers

<u>Years of Experience</u>	<u>"M" Teachers</u>	<u>NBPTS Certification</u>
0	\$2,797	N/A
1	\$2,843	N/A
2	\$2,891	N/A
3	\$3,060	\$3,427
4	\$3,215	\$3,601
5	\$3,362	\$3,765
6	\$3,503	\$3,923
7	\$3,617	\$4,051
8	\$3,669	\$4,109
9	\$3,723	\$4,170
10	\$3,778	\$4,231
11	\$3,833	\$4,293
12	\$3,888	\$4,355
13	\$3,943	\$4,416

14	\$4,002	\$4,482
15	\$4,061	\$4,548
16	\$4,121	\$4,616
17	\$4,183	\$4,685
18	\$4,245	\$4,754
19	\$4,310	\$4,827
20	\$4,374	\$4,899
21	\$4,442	\$4,975
22	\$4,509	\$5,050
23	\$4,580	\$5,130
24	\$4,651	\$5,209
25	\$4,721	\$5,288
26	\$4,795	\$5,370
27	\$4,870	\$5,454
28	\$4,947	\$5,541
29	\$5,025	\$5,628
30+	\$5,025	\$5,628

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 2004-2005 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 2004-2005 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 2004-2005 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases for the 2004-2005 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 2004-2005 fiscal year, commencing July 1, 2004, is as follows:

2004-2005 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	\$3,248	-	-	-	-
5	\$3,396	-	-	-	-
6	\$3,539	-	-	-	-
7	\$3,653	-	-	-	-
8	\$3,706	\$3,706	-	-	-
9	\$3,760	\$3,760	-	-	-
10	\$3,816	\$3,816	\$3,871	-	-
11	\$3,871	\$3,871	\$3,927	-	-
12	\$3,927	\$3,927	\$3,983	\$4,042	-
13	\$3,983	\$3,983	\$4,042	\$4,101	\$4,163
14	\$4,042	\$4,042	\$4,101	\$4,163	\$4,225
15	\$4,101	\$4,101	\$4,163	\$4,225	\$4,288
16	\$4,163	\$4,163	\$4,225	\$4,288	\$4,353
17	\$4,225	\$4,225	\$4,288	\$4,353	\$4,417
18	\$4,288	\$4,288	\$4,353	\$4,417	\$4,486
19	\$4,353	\$4,353	\$4,417	\$4,486	\$4,554
20	\$4,417	\$4,417	\$4,486	\$4,554	\$4,627
21	\$4,486	\$4,486	\$4,554	\$4,627	\$4,697
22	\$4,554	\$4,554	\$4,627	\$4,697	\$4,769
23	\$4,627	\$4,627	\$4,697	\$4,769	\$4,843
24	\$4,697	\$4,697	\$4,769	\$4,843	\$4,919
25	\$4,769	\$4,769	\$4,843	\$4,919	\$4,996
26	\$4,843	\$4,843	\$4,919	\$4,996	\$5,076

27	\$4,919	\$4,919	\$4,996	\$5,076	\$5,177
28	\$4,996	\$4,996	\$5,076	\$5,177	\$5,281
29	\$5,076	\$5,076	\$5,177	\$5,281	\$5,387
30	\$5,177	\$5,177	\$5,281	\$5,387	\$5,495
31	\$5,281	\$5,281	\$5,387	\$5,495	\$5,604
32	-	\$5,387	\$5,495	\$5,604	\$5,716
33	-	-	\$5,604	\$5,716	\$5,831
34	-	-	\$5,716	\$5,831	\$5,948
35	-	-	-	\$5,948	\$6,066
36	-	-	-	\$6,066	\$6,188
37	-	-	-	-	\$6,312

2004-2005
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	\$4,288	-	-	-
15	\$4,353	-	-	-
16	\$4,417	\$4,486	-	-
17	\$4,486	\$4,554	\$4,697	-
18	\$4,554	\$4,627	\$4,769	\$4,843
19	\$4,627	\$4,697	\$4,843	\$4,919
20	\$4,697	\$4,769	\$4,919	\$4,996
21	\$4,769	\$4,843	\$4,996	\$5,076
22	\$4,843	\$4,919	\$5,076	\$5,177
23	\$4,919	\$4,996	\$5,177	\$5,281
24	\$4,996	\$5,076	\$5,281	\$5,387
25	\$5,076	\$5,177	\$5,387	\$5,495
26	\$5,177	\$5,281	\$5,495	\$5,604
27	\$5,281	\$5,387	\$5,604	\$5,716
28	\$5,387	\$5,495	\$5,716	\$5,831
29	\$5,495	\$5,604	\$5,831	\$5,948
30	\$5,604	\$5,716	\$5,948	\$6,066
31	\$5,716	\$5,831	\$6,066	\$6,188
32	\$5,831	\$5,948	\$6,188	\$6,312
33	\$5,948	\$6,066	\$6,312	\$6,438
34	\$6,066	\$6,188	\$6,438	\$6,567
35	\$6,188	\$6,312	\$6,567	\$6,698
36	\$6,312	\$6,438	\$6,698	\$6,831
37	\$6,438	\$6,567	\$6,831	\$6,968
38	\$6,567	\$6,698	\$6,968	\$7,107
39	-	\$6,831	\$7,107	\$7,249
40	-	\$6,968	\$7,249	\$7,394
41	-	-	\$7,394	\$7,542

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 2004-2005 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.

EXPERIENCE STEP INCREASE FOR TEACHERS AND PRINCIPALS IN PUBLIC SCHOOLS

SECTION 7.2A. Effective July 1, 2004, any permanent certified personnel employed on July 1, 2004, 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, 2004, any permanent personnel employed on July 1, 2004, 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.

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 2004-2005 fiscal year, beginning July 1, 2004.

School Administrator I	\$2,932	\$5,398
School Administrator II	\$3,112	\$5,726
School Administrator III	\$3,303	\$6,073
School Administrator IV	\$3,436	\$6,316
School Administrator V	\$3,574	\$6,570
School Administrator VI	\$3,792	\$6,969
School Administrator VII	\$3,945	\$7,249

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, 2004.

SECTION 7.3.(b) The monthly salary ranges that follow apply to public school superintendents for the 2004-2005 fiscal year, beginning July 1, 2004.

Superintendent I	\$4,187	\$7,691
Superintendent II	\$4,445	\$8,155
Superintendent III	\$4,716	\$8,652
Superintendent IV	\$5,005	\$9,177
Superintendent V	\$5,312	\$9,736

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 annual salary increase for all permanent full-time personnel paid from the Central Office Allotment shall be the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%), commencing July 1, 2004. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing salary increases to these personnel.

NONCERTIFIED PERSONNEL SALARY

SECTION 7.4.(a) The annual salary increase for permanent, full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%), commencing July 1, 2004.

SECTION 7.4.(b) Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2003-2004 and

who continue their employment for fiscal year 2004-2005 by providing an annual salary increase for employees of the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%). For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 7.4.(c) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%) for the 2004-2005 fiscal year.

APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS

SECTION 7.5. Section 7.8 of S.L. 2003-284 reads as rewritten:

"**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~~ fiscal year and the sum of six hundred two thousand nine hundred seventy-five dollars (\$602,975) for the 2004-2005 fiscal year 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~~ fiscal year and the sum of two hundred ninety-seven thousand four hundred six dollars (\$297,406) for the 2004-2005 fiscal year 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~~ fiscal year and the sum of three hundred five thousand five hundred sixty-nine dollars (\$305,569) for the 2004-2005 fiscal year 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."

CHILDREN WITH DISABILITIES

SECTION 7.6. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand seven hundred seventy-three dollars and ninety-six cents (\$2,773.96) per child for a maximum of 166,500 children for the 2004-2005 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 2004-2005 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 7.7. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of nine hundred fourteen dollars and ninety-five cents (\$914.95) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2004-2005 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 54,762 children for the 2004-2005 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.

LEA ASSISTANCE PROGRAM

SECTION 7.8.(a) Section 7.17 of S.L. 2003-284 reads as rewritten:

"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 and the sum of five hundred thousand dollars (\$500,000) for fiscal year 2004-2005 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. These funds shall not revert at the end of each fiscal year but shall remain available until expended for this purpose."

SECTION 7.8.(b) This section becomes effective June 30, 2004.

LOCAL EDUCATION AGENCY FLEXIBILITY

SECTION 7.9. Section 7.23 of S.L. 2003-284 reads as rewritten:

"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~~ appropriations for the 2003-2004 fiscal year. Within 14 days of the date the Current Operations and Capital Improvements Appropriations Act of 2004 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 for the 2004-2005 fiscal year. The State Board shall determine the amount of the reduction for each unit for each fiscal year 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 2003-2004 fiscal year for the unit within 30

days of the date this act becomes law and ~~by September 1, 2004, within 30 days of the date the Current Operations and Capital Improvements Appropriations Act of 2004 becomes law~~ for reductions for the 2004-2005 fiscal year. ~~No later than December 31, 2003, the~~ 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-reduction for the 2003-2004 fiscal year by December 31, 2003, and for the 2004-2005 fiscal year by December 31, 2004.

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."~~

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 7.9A. Section 7.7(a) of S.L. 2003-284 reads as rewritten:

"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)~~ seven hundred forty thousand seventy-four dollars (\$740,074) 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."

REPLACEMENT SCHOOL BUSES FUNDS

SECTION 7.10. Section 7.25(a) of S.L. 2003-284 reads as rewritten:

"**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)~~ thirty-seven million two hundred thirty-nine thousand nine hundred twelve dollars (\$37,239,912) 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."

K-2 ASSESSMENT

SECTION 7.11. G.S.115C-174.11(a) reads as rewritten:

"§ 115C-174.11. **Components of the testing program.**

(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the

Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests tests except as required as a condition of receiving a federal grant under the Reading First Program."

EVALUATE VALIDITY OF ABC ACCOUNTABILITY SYSTEM

SECTION 7.12.(a) G.S. 115C-105.35 reads as rewritten:

"§ 115C-105.35. Annual performance goals.

(a) 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. During the 2004-2005 school year and at least every five years thereafter, the State Board shall evaluate the accountability system and, if necessary, modify the testing standards to assure the testing standards continue to reasonably reflect the level of performance necessary to be successful at the next grade level or for more advanced study in the content area.

As part of this evaluation, the Board shall, where available, review the historical trend data on student academic performance on State tests. To the extent that the historical trend data suggest that the current standards for student performance may not be appropriate, the State Board shall adjust the standards to assure that they continue to reflect the State's high expectations for student performance.

(b) 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.

(c) 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 7.12.(b) The State Board shall complete its initial evaluation and any necessary modifications to the testing standards required under G.S. 115C-105.35, as rewritten by subsection (a) of this section, so that the modified standards are in effect no later than the 2005-2006 school year.

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.13. The State Board of Education shall use funds appropriated in this act for State Aid to Local School Administrative Units to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2003-2004 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.

DISCONTINUE INEFFECTIVE PROGRAM

SECTION 7.14. Section 7.20(a) of S.L. 2003-284 is repealed.

RESTORE VOCATIONAL EDUCATION FUNDING

SECTION 7.15.(a) Section 7.37 of S.L. 2003-284 reads as rewritten:

~~"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. Priority use of these funds should be to provide vocational education in grades eight through 12."~~

SECTION 7.15.(b) G.S. 115C-151 reads as rewritten:

"§ 115C-151. Statement of purpose.

It is the intent of the General Assembly that vocational and technical education be an integral part of the educational process. The State Board of Education shall administer through local boards of education a comprehensive program of vocational and technical education that shall be available to all ~~students~~students, with priority given to students in grades eight through 12, who desire it in the public secondary schools and middle schools of this State. The purposes of vocational and technical education in North Carolina public secondary schools shall be:

- (1) Occupational Skill Development. – To prepare individuals for paid or unpaid employment in recognized occupations, new occupations, and emerging occupations.
- (2) Preparation for Advanced Education. – To prepare individuals for participation in advanced or highly skilled vocational and technical education.
- (3) Career Development; Introductory. – To assist individuals in the making of informed and meaningful occupational choices.

It is also legislative intent to authorize the State Board of Education to support appropriate vocational and technical education instruction and related services for individuals who have special vocational and technical education needs which can be fulfilled through a comprehensive vocational and technical education program as designated by State Board of Education policy or federal vocational and technical education legislation."

SECTION 7.15.(c) G.S. 115C-157 reads as rewritten:

"§ 115C-157. Responsibility of local boards of education.

Each local school administrative unit, shall provide free appropriate vocational and technical education instruction, activities, and services in accordance with the provisions of this Part for all ~~youth~~ youth, with priority given to youth in grades eight through 12, who elect the instruction and shall have responsibility for administering the instruction, activities, and services in accordance with federal and State law and State Board of Education policies."

HEALTHFUL SCHOOL FOOD CHOICES/PILOT PROGRAM

SECTION 7.17.(a) The State Board of Education, with the advice and assistance of The North Carolina School Food Service Association and the Academy of Family Physicians, shall develop and implement a pilot program to support the efforts of local school administrative units to provide only healthful, nutritious food choices to students. The State Board of Education shall select up to eight local school administrative units to participate in the pilot program and shall set standards for the food choices offered to students. In selecting the eight pilot units, the State Board shall give priority to those units that volunteer to be a pilot. The pilots shall be distributed geographically throughout the State.

For the 2004-2005 school year, pilot units shall implement the program in elementary schools.

SECTION 7.17.(b) If, at the end of the 2004-2005 school year, the State Board of Education finds that a pilot unit experienced a decrease in food service revenues because students opted not to purchase the healthful, nutritious food choices offered by the school food service, the State Board shall reimburse the unit for that decrease in revenues.

VISITING INTERNATIONAL FACULTY

SECTION 7.18. Section 7.41 of S.L. 2003-284 reads as rewritten:

"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 and the 2004-2005 fiscal year on the basis of the allotted average teacher salary and benefits."

STATE BOARD OF EDUCATION AUTHORITY TO SET CERTIFICATION STANDARDS FOR TEACHERS

SECTION 7.19.(a) G.S. 115C-296 reads as rewritten:

"§ 115C-296. Board sets certification requirements.

(a) The State Board of Education shall have entire control of certifying all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates and shall determine and fix the salary for each grade and type of certificate which it ~~authorizes. Provided, that the~~ authorizes.

The State Board of Education shall may require each an applicant for an initial bachelors degree certificate or graduate degree certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. The State Board of Education shall permit an applicant to fulfill ~~this any such testing~~ requirement before or during the applicant's second year of teaching provided the applicant took the

examination at least once during the first year of teaching. The State Board of Education shall make ~~the~~ any required standard initial certification exam sufficiently rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has adequate academic and professional preparation to teach.

(a1) The State Board shall adopt policies that establish the minimum scores for ~~the~~ any required standard examinations and other measures necessary to assess the qualifications of professional personnel as required under subsection (a) of this section. For purposes of this subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the General Statutes. At least 30 days prior to changing any policy adopted under this subsection, the State Board shall provide written notice to all North Carolina schools of education and to all local boards of education. The written notice shall include the proposed revised policy.

...."

SECTION 7.19.(b) G.S. 115C-296.1(c) reads as rewritten:

"(c) A local board may re-employ as a teacher an individual the board initially employed under subdivisions (a)(2)b and (a)(2)c of this section. If the individual, either prior to initial employment or within one year after initial employment, takes and passes ~~the~~ any required standard examination adopted by the State Board under G.S. 115C-296(a) that is or was applicable to the grade or subject the individual is employed to teach, then upon re-employment the individual is deemed to have satisfied the academic and professional preparation required to receive an initial State teacher certificate. An individual who receives an initial certificate under this subsection is subject to the same requirements for continuing certification as other teachers who hold initial State teacher certificates. If the individual, within one year of the initial employment, does not take and pass ~~the~~ any required standard examination adopted by the State Board under G.S. 115C.296(a) that is applicable to the grade or subject the individual is employed to teach, then upon re-employment the individual shall continue to hold a provisional certificate and is subject to G.S. 115C-296(c)."

SECTION 7.19.(c) Subsection (b) of this section expires September 1, 2006.

STUDY STRATEGIES FOR FACILITATING STUDENT PARTICIPATION IN TEACHER PREPARATION PROGRAMS

SECTION 7.19A. The Joint Legislative Education Oversight Committee shall study strategies for facilitating student participation in teacher preparation programs. In the course of the study, the Committee shall review existing programs that facilitate student participation in teacher preparation programs such as (i) university and community college collaborative programs; (ii) distance learning programs; and (iii) any other existing teacher preparation programs other than traditional four-year residential programs. The Committee shall also consider other strategies for increasing the number of teachers certified such as establishing branch campuses and providing other distance learning programs. The Committee shall make recommendations, including recommendations on pilot programs, to the 2005 General Assembly by January 15, 2005.

MAINTAIN 12-MONTH VOCATIONAL AGRICULTURE TEACHER POSITIONS

SECTION 7.20. G.S. 115C-302.1(b) reads as rewritten:

"(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10 months. State-allotted months of employment for vocational education to local boards shall be used for the employment of teachers of vocational and technical education for a term of employment to be determined by the local boards of education. However, local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 1982-83 school year for any school year thereafter. In addition, local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 2003-2004 school year for any school year thereafter.

Each local board of education shall establish a set date on which monthly salary payments to State-allotted teachers shall be made. This set pay date may differ from the end of the month of service. The daily rate of pay for teachers shall equal one twenty-second of the monthly rate of pay.

Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher who fails to attend scheduled workdays or who has not worked the number of days for which the teacher has been paid and who resigns, is dismissed, or whose contract is not renewed shall repay to the local board any salary payments received for days not yet worked. A teacher who has been prepaid and continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal under G.S. 115C-325 or other appropriate discipline.

Any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. The request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease the teacher's annual salary nor in any other way alter the contract made between the teacher and the local school administrative unit. Teachers employed for a period of less than 10 months shall not receive their salaries in 12 installments."

ACCOUNTABILITY ASSESSMENT FOR AGRICULTURAL EDUCATION

SECTION 7.20A. During the 2005-2006 school year, the State Board of Education shall submit an amended State Career-Technical Education Plan to the United States Department of Education to:

- (1) Permit the State Board to field test the North Carolina Agricultural Education Program Standards and collect data on these Standards for two years;
- (2) Permit the use of the data collected under the field test as an alternative to the end-of-course tests in the Vocational Education Competency Achievement Tracking System (VoCATS) and authorize the use of that data to satisfy the technical attainment requirement for continued Carl D. Perkins funding;
- (3) Require the Department of Public Instruction and the Department of Agricultural Education at North Carolina State University to monitor the program to ensure compliance with all Standards; and
- (4) Authorize the State Board of Education to determine whether to use the North Carolina Agricultural Education Program Standards on a statewide basis if the two years of field testing are successful.

The Department of Public Instruction and the Department of Agricultural Education at North Carolina State University shall report on the field test to the Joint Legislative Education Oversight Committee by October 15, 2006.

ADDITIONAL TEACHER POSITIONS FOR THIRD GRADE

SECTION 7.21.(a) The maximum class size limits for third grade established by the State Board of Education for the 2004-2005 school year shall be reduced by 4.23 from the 2003-2004 limits, based on an allotment ratio of one teacher for every 18 students.

SECTION 7.21.(b) For the 2004-2005 school year, local school administrative units shall use these additional teacher positions to reduce class size in third grade.

HIGH SCHOOL WORKFORCE DEVELOPMENT PROGRAM

SECTION 7.22.(a) Funds are appropriated in this act for a high school workforce development program. The purpose of the program shall be to identify students who may not plan to attend or be adequately prepared to attend a two- or four-year degree program and to provide the assistance those students need to earn an Associate Degree the year after their senior year in high school. The Department of Public Instruction shall work closely with the Education Cabinet and the New Schools Project in administering the program.

These funds shall be used to establish five pilot projects in which a local school administrative unit, two- and four-year colleges and universities, and local employers work together to ensure that high school and community college curricula operate seamlessly and meet the needs of participating employers.

SECTION 7.22.(b) The State Board of Education shall conduct an annual evaluation of this program. The evaluation shall include (i) an assessment of the overall impact of this program on student achievement, retention, and employability, (ii) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability, and (iii) recommendations for continuance and improvement of the program. The State Board of Education shall report the results of this evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division, by September 15 of each year.

FUNDS FOR EDUCATION OF STUDENTS AT ECKERD YOUTH ALTERNATIVES THERAPEUTIC CAMP

SECTION 7.22A. If a school-age child is placed in an Eckerd Youth Alternatives therapeutic camp, the local school administrative unit in which the child resides shall be responsible for the cost of the educational services to the child. The unit shall be responsible for a maximum of one one-hundred-eightieth (1/180) of:

- (1) The State average per pupil allocation from State funds for average daily membership allotments except for the allocation for children with special needs and for the allocation for children with limited English proficiency; and
- (2) If the child is a child with special needs, the State per pupil allocation for children with special needs,

for each day that the child receives educational services in an Eckerd Youth Alternatives therapeutic camp, for a maximum of 180 days.

The Department of Public Instruction shall reduce the allotment to the unit in which the child resides by this amount and shall remit the funds to Eckerd Youth Alternatives.

FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW STUDENT INFORMATION SYSTEM

SECTION 7.23. The Office of State Budget and Management shall, after consultation with the Department of Public Instruction, modify the budget structure for funds budgeted for the Uniform Education Reporting System to separate funds for the development and implementation of NC WISE from funds for other reporting systems. The modified structure shall provide a level of detail sufficient to isolate expenditures for each project.

COUNTY FUNDS FOR CHARTER SCHOOL FACILITY PILOT PROGRAM

SECTION 7.25.(a) A charter school, prior to July 1, 2005, may adopt and present to the local board of education of the local school administrative unit in which it is located a resolution requesting funds for the construction of charter school facilities. The resolution shall describe the intended use of the funds. If the local board of education approves the request, the local board of education shall submit the charter school's request to the board of county commissioners along with the budget request for the local board of education. If the county appropriates funds for the construction of charter school facilities, the local board of education shall transfer the funds to the charter school. The local board of education shall require that the charter school account for the appropriation at the close of the fiscal year. This subsection applies only to the Mount Airy City School Administrative Unit and to Surry County. Definitions applicable to Part 6A of Article 16 of Chapter 115C of the General Statutes apply to this subsection.

SECTION 7.25.(b) If a local board of education, prior to July 1, 2005, submits a charter school's request for funds for the construction of charter school facilities to a county in accordance with subsection (a) of this section, the county may appropriate funds for capital outlay for a charter school located in the county. Before it appropriates funds under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once a week for two consecutive weeks before the hearing in a newspaper having general circulation in the area. An ordinance appropriating funds under this section may not be adopted after June 30, 2005. No funds may be expended under this section unless the county receives a security interest in the facilities being constructed in the amount of the funds expended.

The county shall not appropriate for charter school facilities (i) any local sales tax revenues earmarked by G.S. 105-487(a) or G.S. 105-502(a) for public school capital outlay purposes or for the retirement of debt incurred for public school capital outlay purposes or (ii) any corporate tax revenues earmarked by G.S. 115C-546.1(b) for the Public School Building Capital Fund. The ordinance making the appropriation shall state specifically what the appropriation is to be used for.

This subsection applies only to the Mount Airy City School Administrative Unit and to Surry County. Definitions applicable to Chapter 153A of the General Statutes apply to this subsection.

IMPLEMENTATION OF ALTERNATE COMPETENCY TESTS

SECTION 7.27. Section 2 of S.L. 2003-275 reads as rewritten:

"SECTION 2. This act becomes effective July 1, 2003. G.S. 115C-174.11(b)(3a), as created in Section 1 of this act, shall be implemented no later than the 2004-2005 school

year. The State Board of Education shall adopt or develop and validate the alternate tests required under G.S. 115C-174.11(b)(3), as amended by Section 1 of this act, no later than April 15, 2005, and shall implement these alternate tests beginning with the 2005-2006 school year."

TEACHERS FOR GEOGRAPHICALLY ISOLATED SCHOOLS

SECTION 7.28. The State Board of Education shall modify its policy on the allotment of additional classroom teachers to small schools when consolidation is not feasible due to the geographic isolation of the school to provide for the allotment of additional teachers to any such school in which the average daily membership is 110 or less. In administering this policy with regard to a school located in a local school administrative unit in which the average daily membership is less than 1.5 per square mile, the State Board of Education shall, at a minimum:

- (1) Allot teachers to the geographically isolated school on the basis of one classroom teacher per grade level; and
- (2) Allot teachers to the remainder of the local school administrative unit under the regular teacher allotment formula.

The State Board may allot additional teachers to the local school administrative unit if demographic conditions warrant.

ENHANCE NUTRITION IN SCHOOL FOOD PROGRAM

SECTION 7.29.(a) 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.

For nutritional purposes, the public schools shall not (i) use cooking oils in their school food programs that contain trans-fatty acids or (ii) sell processed foods containing trans-fatty acids that were formed during the commercial processing of the foods.

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 be complied with in the purchase of supplies and food for such school food services."

SECTION 7.29.(b) This section becomes effective August 1, 2005.

ENCOURAGE LEAS TO APPLY FOR E-RATE REIMBURSEMENTS

SECTION 7.30. The State Board of Education shall identify all local school administrative units not applying for reimbursements under the federal E-rate Program and shall encourage and provide them with technical assistance on doing so.

STUDY THE EFFICACY OF PROVIDING FOR STAFF DEVELOPMENT THROUGH REGIONAL EDUCATION SERVICE ALLIANCES

SECTION 7.31. The Joint Legislative Education Oversight Committee may consider the efficacy of providing for staff development in the core curricular areas through teacher-on-loan positions at Regional Education Service Alliances (RESAs). The Regional Education Service Alliances would:

- (1) Establish a uniform system of delivery that provides member school systems with the opportunity for consistent professional development activities;
- (2) Expand services to member school systems, which include regional, on-site, and follow-up training for educators in the core curricular areas;
- (3) Employ content specialists highly knowledgeable of the North Carolina Standard Course of Study as consistent and reliable resources for member school districts; and
- (4) Identify, communicate, and assist with the implementation of State educational initiatives.

The positions would be under the direction and supervision of an on-site RESA director.

If the Joint Legislative Education Oversight Committee undertakes the study, the Committee shall report the results of the study to the 2005 General Assembly.

LOCAL SCHOOL CONSTRUCTION FINANCING STUDY

SECTION 7.32.(a) Establishment of the Commission. – The Local School Construction Financing Study Commission is established.

SECTION 7.32.(b) Membership. – The Commission shall be composed of 20 members, as follows:

- (1) One member appointed by the Governor, after consultation with the President Pro Tempore of the Senate and the Speaker of the House of Representatives, who shall serve as chair;
- (2) Eight members appointed by the President Pro Tempore of the Senate: two members of the Senate from urban areas, two members of the Senate from rural areas, one member representing a large, fast-growing, urban school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member from the financial services industry, one county commissioner, and one educator;
- (3) Eight members appointed by the Speaker of the House of Representatives: two members of the House of Representatives from urban areas, two members of the House of Representatives from rural

areas, one member representing a rural school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member who is knowledgeable about municipal and school finance, one school board member, and one educator;

- (4) The State Treasurer or a designee;
- (5) The State Superintendent of Public Instruction or a designee; and
- (6) The chair of the State Board of Education.

Vacancies shall be filled by the appointing authority.

SECTION 7.32.(c) Duties of the Commission. – The Commission shall examine the present system of local financing for school facilities and shall study alternative options for financing local school construction, renovation, repair, and maintenance. The Commission may study and consider public-private partnerships for school construction and facility ownership, sale lease-back arrangements, private and commercial financing arrangements, design standards for school facilities that may facilitate alternative financing techniques, alternative local revenue sources for financing school facilities, the use of real estate investment trusts, State and local construction bond pools, and any other financing issues deemed pertinent by the Commission.

SECTION 7.32.(d) 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 7.32.(e) Consultants and Other Staff. – The Commission may hire consultants to provide research, staff support, and information about school financing in other states to the Commission, in accordance with G.S. 120-32.02. The Legislative Services Office, with the prior approval of the Legislative Services Commission, shall also assign professional and clerical staff to assist the Commission in its work.

SECTION 7.32.(f) Cooperation by Government Agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance. All State departments and agencies, local governments, and their subdivisions shall cooperate with the Commission and, upon request, shall furnish the Commission and its staff any information in their possession or available to them.

SECTION 7.32.(g) Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly.

SECTION 7.32.(h) Meeting Location. – The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building. The Commission may also meet at various locations around the State in order to promote greater public participation in its deliberations.

SECTION 7.32.(i) Reports. – The Commission shall make an interim report to the 2005 General Assembly no later than January 31, 2005, and a final report to the 2006 Regular Session of the 2005 General Assembly no later than March 31, 2006. The final report shall contain recommendations for legislation to implement recommendations made by the Commission. The interim report may also contain recommendations for legislation. The Commission shall terminate on March 31, 2006.

SECTION 7.32.(j) Notwithstanding the provisions of G.S. 115C-546.1(b), the Secretary of Revenue shall remit to the State Treasurer for credit to the General Assembly the sum of one hundred thousand dollars (\$100,000) of

the funds to be deposited in the Public School Building Capital Fund pursuant to G.S. 115C-546.1(b) during the 2004-2005 fiscal year. These funds shall be used for the expenses of the Local School Construction Financing Study Commission. The Commission may also apply for, receive, or accept grants and contributions, subject to the provisions of G.S. 120-32.03, to support the work of the Commission.

CHILDREN'S TRUST FUND

SECTION 7.33.(a) The Department of Public Instruction, in carrying out its duties and responsibilities under Article 13 of Chapter 7B of the General Statutes, shall collaborate with the Division of Social Services and with statewide child abuse and neglect prevention experts with regards to the following:

- (1) Best practices in child abuse and neglect prevention programs and policies.
- (2) Exploration of additional revenue sources for the protection of children in this State.
- (3) Educational programs to ensure statewide awareness of the Children's Trust Fund, and its purpose and mission.

SECTION 7.33.(b) The Department of Public Instruction shall report annually on revenues and expenditures of the Children's Trust Fund to the Joint Legislative Commission on Governmental Operations.

PART VIII. COMMUNITY COLLEGES

USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT

SECTION 8.1.(a) Funds appropriated to the Community Colleges System Office for the College Information System Project shall not revert at the end of the 2003-2004 fiscal year but shall remain available until expended.

SECTION 8.1.(b) The Community Colleges System Office shall report on a quarterly basis to the Joint Legislative Education Oversight Committee on the implementation of the College Information System Project.

SECTION 8.1.(c) Subsection (a) of this section becomes effective June 30, 2004.

CARRYFORWARD FOR EQUIPMENT

SECTION 8.2.(a) Subject to the approval of the Office of State Budget and Management and cash availability, the North Carolina Community Colleges System may carry forward an amount not to exceed ten million dollars (\$10,000,000) of the operating funds held in reserve that were not reverted in fiscal year 2003-2004 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds shall be distributed to colleges consistent with G.S. 115D-31.

SECTION 8.2.(b) This section becomes effective June 30, 2004.

SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL STAFF

SECTION 8.3.(a) It is the intent of the General Assembly to establish a community college faculty salary plan that (i) provides accountability to the General Assembly, (ii) maintains local flexibility and autonomy for the community colleges, and (iii) ensures that community college faculty members have a uniform minimum salary based on level of education, equivalent applicable experience, or both.

It is imperative that the State move community college faculty and professional staff salaries to the national average. The estimated incremental costs of doing so over five years are thirty-three million two hundred eighty-nine thousand three hundred seventy-one dollars (\$33,289,371) for the 2004-2005 fiscal year, twenty-one million ninety-two thousand sixty-six dollars (\$21,092,066) for the 2005-2006 fiscal year, twenty-one million five hundred seventy-four thousand five hundred three dollars (\$21,574,503) for the 2006-2007 fiscal year, twenty-two million ninety-five thousand five hundred thirty-two dollars (\$22,095,532) for the 2007-2008 fiscal year, and twelve million four hundred twenty-seven thousand five hundred thirty-one dollars (\$12,427,531) for the 2008-2009 fiscal year.

SECTION 8.3.(b) The minimum salaries for community college faculty shall be based on the following education levels:

- (1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
- (2) Associates Degree or Equivalent. – This education level includes faculty members who have an associates degree or have completed two or more years of college but have no degree.
- (3) Bachelors Degree.
- (4) Masters Degree or Education Specialist.
- (5) Doctoral Degree.

SECTION 8.3.(c) For the 2004-2005 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$28,512
Associates Degree or Equivalent	\$28,944
Bachelors Degree	\$30,817
Masters Degree or Education Specialist	\$32,478
Doctoral Degree	\$34,874.

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

SECTION 8.3.(d)

- (1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:
 - a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up to eight percent (8%) of the State funds allocated to it for faculty salaries.
 - b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.
 - c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of

the national average community college faculty salary, the college may transfer up to five percent (5%) of the State funds allocated to it for faculty salaries.

- d. If the average faculty salary at a community college is at least eighty-five percent (85%) but less than ninety percent (90%) of the national average community college faculty salary, the college may transfer up to three percent (3%) of the State funds allocated to it for faculty salaries.
- e. If the average faculty salary at a community college is eighty-five percent (85%) or less of the national average community college faculty salary, the college may transfer up to two percent (2%) of the State funds allocated to it for faculty salaries.

Except as provided by subdivision (2) of this subsection, a community college shall not transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by this subsection.

- (2) With the approval of the State Board of Community Colleges, a community college at which the average faculty salary is eighty-five percent (85%) or less of the national average may transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by sub-subdivision e. of subdivision (1) of this subsection. The State Board shall approve the transfer only for purposes that directly affect student services.

The State Board of Community Colleges shall adopt rules to implement the provisions of this subdivision.

- (3) A local community college may use all State funds allocated to it except for Literacy Funds and Funds for New and Expanding Industries to increase faculty salaries.

SECTION 8.3.(e) As used in this section:

- (1) "Average faculty salary at a community college" means the total nine-month salary from all sources of all nine-month, full-time, curriculum faculty at the college, as determined by the North Carolina Community College System on October 1 of each year.
- (2) "National average community college faculty salary" means the nine-month, full-time, curriculum salary average, as published by the Integrated Postsecondary Education Data System (IPEDS), for the most recent year for which data are available.

SECTION 8.3.(f) The State Board of Community Colleges shall adopt rules to implement the provisions of this section.

SECTION 8.3.(g) The State Board of Community Colleges shall report to the appropriations subcommittees on education, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division, and the Office of State Budget and Management by December 1, 2004, and every year thereafter through December 1, 2009, on the implementation of this section.

SECTION 8.3.(h) Funds appropriated in this act for salary increases shall be used to:

- (1) Implement the minimum salaries set out in subsection (c) of this section. Funds shall be allocated to those colleges with faculty below

the minimum salary in each education level as determined by the North Carolina Community College System. These funds shall only be used to bring the salaries of full-time faculty members to the applicable minimum; and

- (2) Increase faculty and professional staff salaries by an average of two percent (2%). These increases are in addition to other salary increases provided for in this act and shall be calculated on the average salaries prior to the issuance of the compensation increase. 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. These funds shall not be transferred by the State Board or used for any other budget purpose by the community colleges.

MODIFY REPORTING REQUIREMENT FOR NEW AND EXPANDING INDUSTRY TRAINING PROGRAM

SECTION 8.4. G.S.115D-5(i) reads as rewritten:

"(i) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on ~~March 1 and October 1~~ September 1 of each year on expenditures for the New and Expanding Industry Program each fiscal year. The report shall include, for each company or individual that receives funds for New and Expanding Industry:

- (1) The total amount of funds received by the company or individual;
- (2) The amount of funds per trainee received by the company or individual;
- (3) The amount of funds received per trainee by the community college training the trainee;
- (4) The number of trainees trained by company and by community college; and
- (5) The number of years the companies or individuals have been funded."

NEW AND EXPANDING INDUSTRIES TRAINING PROGRAM FUNDS

SECTION 8.5.(a) Funds available to the New and Expanding Industries Program shall not revert at the end of the 2003-2004 fiscal year but shall remain available until expended.

SECTION 8.5.(b) This section becomes effective June 30, 2004.

CENTER FOR APPLIED TEXTILE TECHNOLOGY/MODIFY BOARD MEMBERSHIP

SECTION 8.6. G.S. 115D-68 reads as rewritten:

"§ 115D-68. Creation of board of trustees; members and terms of office; no compensation.

The North Carolina Center for Applied Textile Technology shall be managed, subject to policies and regulations of the State Board of Community Colleges, by a board of trustees. The board of trustees shall consist of ~~the President of the North Carolina System of Community Colleges and~~ nine members appointed by the Governor. The terms of office of the trustees ~~appointed by the Governor~~ shall be as follows: Three of the trustees shall be appointed for a term of two years; three for three years; and three for four years. At the expiration of those terms, the appointments shall be made for

periods of four years. In the event of any vacancy on the board, the vacancy shall be filled by appointment of the Governor for the unexpired term of the member causing the vacancy. The members of the board of trustees ~~appointed by the Governor~~ shall serve without compensation."

STUDY OF THE NORTH CAROLINA CENTER FOR APPLIED TEXTILE TECHNOLOGY

SECTION 8.6A.(a) The State Board of Community Colleges shall study the North Carolina Center for Applied Textile Technology (NCCATT). In the course of the study, the State Board shall consider:

- (1) The mission and purpose of the Center;
- (2) The Center's programs and course of study;
- (3) Any duplication of courses offered by community colleges;
- (4) The Center's expenditures, receipts, and potential funding mechanisms;
- (5) The population served by the Center, including students and industry; and
- (6) The Center's status within the Community College System.

The State Board shall seek input, during the course of the study, from representatives of the North Carolina textile industry, members of the NCCATT Board of Trustees, the Department of Commerce, representatives of the College of Textiles at North Carolina State University, the Director of the Hosiery Technology Center at Catawba Valley Community College, and other interested parties.

SECTION 8.6A.(b) The State Board shall determine whether the Center should (i) remain an independent institution under the Community College System, (ii) be administered by a community college, (iii) be dissolved and the property transferred from State to county ownership, or (iv) be otherwise administered.

If the State Board determines that the Center should remain an independent institution under the Community College System or be administered by a community college, the State Board shall identify necessary changes to the Center's organization and funding structure, mission and purpose, programs or services currently offered, and governance.

SECTION 8.6A.(c) The State Board shall consult with the Education Subcommittee of the Joint Legislative Commission on Governmental Operations on the results of the study and shall provide a written report on the results of the study to the Office of State Budget and Management, the chairs of the Joint Legislative Education Oversight Committee, and the chairs of the finance committees of the Senate and the House of Representatives, no later than October 30, 2004.

SECTION 8.6A.(d) Notwithstanding Article 6 of Chapter 115D of the General Statutes or any other provision of law, the State Board of Community Colleges, in consultation with the Office of State Budget and Management, shall implement the results of the study by January 1, 2005.

FUNDS FOR THE BUREAU OF TRAINING INITIATIVES

SECTION 8.7.(a) The Community Colleges System Office may carry forward the unexpended balance of funds appropriated for the 2003-2004 fiscal year from the Worker Training Trust Fund to the Community College System Office, Bureau of Training Initiatives. These funds shall be used for pilot programs that support the retraining of the existing workforce in new skills related to specific industry sectors.

The purposes for which the funds may be used in the pilot programs include targeted assessments, training equipment, software, third-party trainers, and supplies and material costs. Any unexpended balance remaining in this program shall revert to the Worker Training Trust Fund on June 30, 2005.

SECTION 8.7.(b) This act becomes effective June 30, 2004.

FUNDS FOR THE COMPREHENSIVE ARTICULATION AGREEMENT STUDY

SECTION 8.8.(a) Section 8.12(h) of S.L. 2003-284 reads as rewritten:

"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. Funds transferred by the North Carolina Community College System that are not expended shall not revert on June 30, 2004, but shall remain available for the 2004-2005 fiscal year to pay costs associated with the study."

SECTION 8.8.(b) This section becomes effective June 30, 2004.

REPORT ON THE ADEQUACY OF MULTICAMPUS AND OFF-CAMPUS CENTER FUNDS

SECTION 8.9. The General Assembly finds that additional data are needed to determine the adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and colleges with off-campus centers shall report annually, beginning September 1, 2005, to the Community Colleges System Office on all expenditures by line item of funds used to support their multicampuses and off-campus centers. The Community Colleges System Office shall report on these expenditures to the Education Appropriation Subcommittees of the House of Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by October 1 of each year.

Of the funds appropriated in this act for off-campus centers, ten thousand dollars (\$10,000) shall be used by the State Board to assist State Board-approved centers with less than 50 FTE. The State Board shall allocate these funds to qualifying colleges on the basis of actual FTE enrollment at the centers.

Notwithstanding any other provision of law, funds appropriated to the Community Colleges System Office for multicampus colleges or off-campus centers shall be used only for the administration of the multicampus college or off-campus center for which the funds were allotted. These funds shall not be transferred to any other campus or center, or used for any other purpose.

MIDDLE COLLEGE START-UP FUNDS

SECTION 8.11.(a) Funds appropriated for a middle college program at Edgecombe Community College shall not revert at the end of the 2003-2004 fiscal year but shall remain available until expended.

SECTION 8.11.(b) This section becomes effective June 30, 2004.

MATCHING FUNDS FOR THE CAREER START PROJECT

SECTION 8.12. Community colleges may use funds earned through the continuation education enrollment allotment for Human Resource Development Programs to match federal grants for the Career Start Project.

STUDY OF FTE FUNDING FORMULA

SECTION 8.13. The State Board of Community Colleges shall consider modifications to its funding formulas to ensure that colleges have sufficient funds to adequately serve students when enrollment increases. In the course of the study, the State Board shall consider methods of accurately projecting enrollment for the upcoming academic year and using projected enrollment in its funding formulas. The State Board shall also consider modifications to its funding formulas to ensure that adequate funding is provided for high-cost programs.

The State Board shall report the results of its study to the Joint Legislative Education Oversight Committee and to the chairs of the appropriations committees of the House of Representatives and the Senate by January 15, 2005.

CONTINGENCY RESERVES

SECTION 8.14. Funds are appropriated in this act for the 2004-2005 fiscal year to create a contingency reserve fund for community college enrollment increases. The State Board of Community Colleges shall use these funds to:

- (1) Increase the FTE allotment for the spring semester of the 2004-2005 school year at colleges that experience a total enrollment growth for the fall semester of the 2004-2005 school year of over ten percent (10%). Each such college shall receive an increase in its FTE allotment for the spring semester equal to the amount the enrollment increase exceeded ten percent (10%), insofar as funds are available within the enrollment reserve; and
- (2) Provide one-time grants to colleges in areas with high unemployment due to manufacturing job losses. These funds shall be used only for additional faculty, guidance counselors, financial aid officers, and equipment that are necessary to meet the specific needs of the workers who are unemployed due to manufacturing job losses.

Funds not expended or encumbered for this purpose shall revert to the General Fund at the end of the 2004-2005 fiscal year.

The State Board of Community Colleges shall adopt rules to determine eligibility for funds from the contingency reserve.

STATE BOARD RESERVE ALLOCATION FOR MAINTENANCE OF PLANT

SECTION 8.16. The State Board of Community Colleges may use up to one hundred thousand dollars (\$100,000) from the State Board Reserve for the 2004-2005 fiscal year to assist small rural low-wealth community colleges with operation and maintenance of plant costs if they need to assist new or expanding industries in their service delivery areas.

STATEWIDE MILITARY BUSINESS CENTER AND HOMELAND SECURITY BUSINESS INCUBATOR

SECTION 8.17.(a) The funds appropriated in this act to the Community Colleges System Office for a military business center to provide for a statewide system of military procurement shall be used as follows:

- (1) The sum of two hundred thousand dollars (\$200,000) shall be used by the North Carolina Electronics and Information Technologies Association to develop, in conjunction with MCNC, a proposal for the development and operation of a homeland security business incubator.

The North Carolina Electronics and Information Technologies Association shall make a report on this proposal to the Joint Legislative Education Oversight Committee no later than February 28, 2005.

- (2) The remainder of these funds shall be used for the development and operation of a military business center by Fayetteville Technical Community College. The military business center shall provide services to residents and businesses throughout the State. These funds shall be used for:
 - a. The development and operation of a statewide business assistance center. The purpose of the business assistance center is to serve as a coordinator and facilitator for small- and medium-sized businesses throughout the State seeking to win and complete military contracts. Activities of the business assistance center shall include:
 1. Training and mentoring eligible businesses on effectively marketing their products and services to military clients and contracting offices.
 2. Assisting eligible businesses with any required accreditations and qualifications for government contracting.
 3. Teaching eligible businesses about federal set-aside programs and how to take advantage of these programs directly or through partnering with other eligible businesses.
 4. Training and assisting clients with the registration, proposal development, and bidding processes related to military contracts.
 5. Training eligible businesses on legal and regulatory compliance.
 6. Designing and implementing mentoring programs to facilitate the development of interrelationships between eligible businesses.
 7. Forecasting the need for and assisting eligible businesses in obtaining advanced certifications and accreditations and advanced manufacturing skills and technologies.
 8. Assisting eligible businesses in advising military clients on retaining project funding.
 9. Working with Small Business Centers throughout the State to carry out these activities on a statewide basis.
 - b. The development and maintenance of an Internet-based system to match the knowledge, skills, and abilities of active-duty military personnel, veterans, and their families throughout the State with the needs of North Carolina businesses.
 - c. The study of community resources and existing business capacity to meet the current and future needs of the military and the development of proposals for further developing community resources and developing or recruiting new businesses to meet those needs.

- d. The marketing of the services provided by the military business center.
- e. The planning and implementation of the development of an industrial park to house military contractors.

These funds shall not revert at the end of the fiscal year but shall remain available for expenditure for these purposes.

SECTION 8.17.(b) G.S. 66-58(c) is amended by adding a new subdivision to read:

"(3b) The operation of a military business center by a community college. For the purposes of this subdivision, the term 'military business center' means a facility that serves to coordinate and facilitate interactions between the United States Armed Forces; military personnel, veterans, and their families; and private businesses."

SECTION 8.17.(c) Fayetteville Technical Community College shall report to the Joint Legislative Education Oversight Committee prior to September 1, 2005, on expenditures of funds pursuant to this section.

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 management flexibility adjustments made to the General Fund budget codes in order to meet the 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, 2004, on all reductions made by these entities and constituent institutions in order to reduce the budgets by the targeted amounts.

NEED-BASED FINANCIAL AID FROM 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-eight million six hundred ten thousand two hundred forty dollars (\$28,610,240) for the 2004-2005 fiscal year and to the State Board of Community Colleges the sum of seven hundred eighteen thousand three hundred ninety-six dollars (\$718,396) for the 2004-2005 fiscal year. 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. The use of principal is allowed if interest income is insufficient.

SECTION 9.2.(b) The Director of the Budget shall include Escheat 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) There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of three hundred ninety thousand dollars (\$390,000) for the 2004-2005 fiscal year to be allocated to the State Education Assistance Authority for need-based student financial aid to be used in

accordance with G.S. 116B-7 and this act. The State Education Assistance Authority shall use these funds only to provide scholarship loans to North Carolina high school seniors interested in preparing to teach in the State's public schools who also enroll at any of the Historically Black Colleges and Universities that do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred dollars (\$6,500) each shall be given to the three universities without any Teaching Fellows for the purposes specified in this subsection. The State Education Assistance Authority shall administer these funds and shall establish any additional criteria needed to award these scholarship loans, the conditions for forgiving the loans, and the collection of the loan repayments when necessary.

AREA HEALTH EDUCATION CENTER (AHEC) FUNDS

SECTION 9.3. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2004-2005 fiscal year and in all subsequent fiscal years, the Board of Governors shall allocate the sum of twenty-four thousand dollars (\$24,000) to the Wilmington AHEC program annually and the sum of twenty-four thousand dollars (\$24,000) to the Region L AHEC program on an annual basis for information highway line charges.

UNC BOND PROJECT MODIFICATIONS

SECTION 9.4.(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 North Carolina Agricultural & Technical State University by:

- (1) Substituting a project entitled "New School of Education" for a project entitled "Central Cooling Plant Phase I" as contained in Section 2(a) of S.L. 2000-3, as it has been determined, based on an independent engineering analysis, that the cooling plant project is not technically feasible.
- (2) The cancellation of "New Student Housing" and "Curtis Residence Hall-Replacement." The money from "New Student Housing" and "Curtis Residence Hall-Renovation" should be transferred to "Scott Residence Hall-Replacement."
- (3) The cancellation of "Holland Residence Hall-Comprehensive Renovation." The unused money should be transferred to "Zoe Barbee Residence Hall-Comprehensive Renovation."

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina Agricultural & Technical State University as follows:

- (1) By substituting the "New School of Education" for "Central Cool Plant-Phase I."
- (2) By deleting "New Student Housing 1,897,900" and "Curtis Residence Hall-Replacement 3,723,500" and by amending "Scott Residence Hall-Replacement" to create a total allocation of thirty-one million eight hundred seventy-four thousand seven hundred dollars (\$31,874,700).
- (3) By deleting "Holland Residence Hall-Comprehensive Renovation 856,800" and by amending "Zoe Barbee Residence Hall-Comprehensive Renovation" to create a total allocation of four million five hundred fifty thousand six hundred dollars (\$4,550,600).

SECTION 9.4.(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 East Carolina University to reduce the scope of "Expansion & Renovation of the Old Nursing Building" by three million dollars (\$3,000,000) to a total allocation of eleven million six hundred eighty-five thousand five hundred dollars (\$11,685,500) and transferring the unused funds to " 'Old Cafeteria' Office Building-Comprehensive Renovation for Student Services/Academic Use" to create a total allocation of seven million four hundred forty-two thousand one hundred dollars (\$7,442,100).

Section 2(a) of S.L. 2000-3 is therefore amended under the portion under East Carolina University by reduction of allocations for the project entitled "Expansion and Renovation of the Old Nursing Building 14,685,500" by three million dollars (\$3,000,000) to a total allocation of eleven million six hundred eighty-five thousand five hundred dollars (\$11,685,500) and the addition of the money to allocations for the project entitled " 'Old Cafeteria' Office Building-Comprehensive Renovation for Student Services/Academic Use 4,442,100" by three million dollars (\$3,000,000) to create a total allocation of seven million four hundred forty-two thousand one hundred dollars (\$7,442,100).

SECTION 9.4.(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 Wilmington, due to growth in enrollment and programs offered, by reducing the scope of the comprehensive renovation of the "Alderman Hall Classroom Building" and by reducing the scope of the comprehensive renovation of the "Kenan Auditorium," both as contained in Section 2(a) of S.L. 2000-3, and by transferring a portion of the funds allocated to these two projects to the comprehensive renovation of the "King Hall Classroom Building," "James Hall Classroom Building," and "Kenan Hall Classroom Building," as contained in Section 2(a) of S.L. 2000-3.

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Wilmington, by reducing the money allocated to "Alderman Hall Classroom Building" by two million two hundred four thousand six hundred fifty-two dollars (\$2,204,652) to create a total allocation of seven hundred thirty-six thousand one hundred forty-eight dollars (\$736,148), by reducing the monies allocated to "Kenan Auditorium" by one million one hundred seventy-three thousand three hundred twenty-five dollars (\$1,173,325) to create a total allocation of one million nine hundred twenty-one thousand nine hundred seventy-five dollars (\$1,921,975) and by reallocating the money saved as follows: increase the budget of "King Hall" from two million six hundred ninety-seven thousand four hundred dollars (\$2,697,400) to three million five hundred twenty-seven thousand four hundred dollars (\$3,527,400), increase the budget for "Hinton James Hall" from one million four hundred sixty-eight thousand dollars (\$1,468,000) to two million eight hundred fifty-four thousand twenty-five dollars (\$2,854,025), and increase the budget of "Kenan Hall" from three million fifty-six thousand six hundred dollars (\$3,056,600) to four million two hundred eighteen thousand five hundred fifty-two dollars (\$4,218,552).

SECTION 9.4.(d) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interests of the State to respond to current educational and research program requirements at Fayetteville State University by changing the scope of the "Comprehensive Renovation and Conversion of Spaulding

(Old Infirmary) for Public Safety Facilities" to "Comprehensive Renovation of Spaulding for Student Health Services and Student Counseling."

Section 2(a) of S.L. 2000-3 is therefore amended by retitling the project currently entitled "Comprehensive Renovation and Conversion of Spaulding (Old Infirmary) for Public Safety Facilities" to "Comprehensive Renovation of Spaulding for Student Health Services and Student Counseling."

SECTION 9.4.(e) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interests of the State to respond to current educational and research program requirements at Fayetteville State University by reallocating unused money from the "William Collins Building Renovation" to a new project entitled "Mitchell Building Renovation for use by Public Safety".

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Fayetteville State University by reducing the money allocated to "William Collins Building-Comprehensive Renovation" by three hundred thousand dollars (\$300,000) to a total of three hundred forty thousand six hundred dollars (\$340,600) and by the addition of a project entitled "Mitchell Building-Comprehensive Renovation for use by Public Safety \$300,000."

SECTION 9.4.(f) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interests of the State to respond to current educational and research program requirements at North Carolina State University by substituting a project entitled "Harrelson Classroom Building-Replacement Classroom Facility Construction" for the project entitled "Harrelson Classroom Building-Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3.

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina State University, by deleting "Harrelson Classroom Building-Comprehensive Renovation" and substituting "Harrelson Classroom Building-Replacement Classroom Facility Construction."

SECTION 9.4.(g) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interests of the State to respond to current educational and research program requirements at the University of North Carolina at Chapel Hill by deleting a project entitled "Community Health Building-Consolidation of Programs" as contained in Section 2(a) of S.L. 2000-3, and dispersing the funds from that project to other health affairs related bond projects.

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Chapel Hill by deleting "Community Health Building Consolidation of Programs" and disbursing the funds associated with that project as follows: adding ten million six hundred twenty-five thousand seven hundred forty-seven dollars (\$10,625,747) to the project entitled "School of Medicine-Medical Research Building-Comprehensive Renovation of Classroom & Laboratory Space," for a total of twenty-three million five hundred twenty thousand seven hundred forty-seven dollars (\$23,520,747); adding one million forty thousand six hundred dollars (\$1,040,600) to a project entitled "Burnett Womack Building Research Laboratory-Comprehensive Renovation," for a total of twenty-five million eight hundred eighty-eight thousand six hundred dollars (\$25,888,600), and adding six million six hundred seventy-three thousand six hundred fifty-three dollars (\$6,673,653) to a project entitled "Berryhill Hall Laboratory Building-Comprehensive Renovation" for a total of seventeen million three hundred seventy-three thousand six hundred fifty-three dollars (\$17,373,653).

SECTION 9.4.(h) Nothing in this section is intended to supersede any other requirement of law or policy for approval of the substituted capital improvement projects.

FAYETTEVILLE STATE UNIVERSITY AND NORTH CAROLINA SCHOOL OF THE ARTS RETAIN REAL PROPERTY PROCEEDS

SECTION 9.5. Notwithstanding any other provision of law, Fayetteville State University and the North Carolina School of the Arts may retain the proceeds from the sale of their existing chancellor's residences and the appurtenant land.

Fayetteville State University may use the proceeds from the sale of its existing chancellor's residence and the appurtenant land, and any other nonappropriated funds available, to construct or otherwise acquire a new chancellor's residence. Proceeds from the sale not used for that purpose shall revert.

The North Carolina School of the Arts may use the proceeds from the sale of its existing chancellor's residence and the appurtenant land, and any other nonappropriated funds available, to construct or otherwise acquire a new chancellor's residence. Proceeds from the sale not used for that purpose shall revert.

NORTH CAROLINA SCHOOL OF SCIENCE AND MATH CARRYOVER/ONETIME EXPENDITURES

SECTION 9.6. G.S. 116-30.2(b) reads as rewritten:

"(b) The North Carolina School of Science and Mathematics is authorized to be designated as a special responsibility constituent institution for the purposes of G.S. 116-30.1, G.S. 116-30.3, G.S. 116-30.4, G.S. 116-30.5, G.S. 116-30.6, and G.S. 116-31.10. In addition, all General Fund appropriations made by the General Assembly for continuing operations of the North Carolina School of Science and Mathematics shall be made in the form of a single sum to each budget code of the School for each year of the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and G.S. 120-76(8), the North Carolina School of Science and Mathematics may expend monies from the overhead receipts special fund budget code and the General Fund monies so appropriated to it in the manner deemed by the Director of the School to be calculated to maintain and advance the programs and services of the School, consistent with the directives and policies of the Board of Trustees of the North Carolina School of Science and Mathematics. The preparation, presentation, and review of General Fund budget requests of the North Carolina School of Science and Mathematics shall be conducted in the same manner as are requests of the constituent institutions. The quarterly allotment procedure established under G.S. 143-17 shall apply to the General Fund appropriations made for the current operations of the North Carolina School of Science and Mathematics. All General Fund monies so appropriated to the North Carolina School of Science and Mathematics shall be recorded, reported, and audited in the same manner as are General Fund appropriations to constituent institutions of The University of North Carolina."

EVALUATE SCIENCE & MATH SCHOOL TUITION GRANTS

SECTION 9.6A.(a) It is the intent of the General Assembly that the Board of Governors of The University of North Carolina review, evaluate, and study G.S. 116-238.1, which provides a four-year tuition grant to any North Carolina resident

who graduates from the North Carolina School of Science and Mathematics and enrolls as a full-time student in a constituent institution of The University of North Carolina.

SECTION 9.6A.(b) The North Carolina School of Science and Mathematics shall collect data on the median family income of the students attending the school.

SECTION 9.6A.(c) The President of the North Carolina School of Science and Mathematics and the Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee regarding the information collected in compliance with subsections (a) and (b) of this section and any findings and recommendations of the Board of Governors. The Joint Legislative Education Oversight Committee shall report to the 2005 General Assembly the information received from the President of the North Carolina School of Science and Mathematics and the Board of Governors and the findings and recommendations of the Board of Governors, along with the Committee's own findings and recommendations regarding the continuation of the tuition grant program.

UNC-CHAPEL HILL CONTINUE TO OPERATE HORACE WILLIAMS AIRPORT

SECTION 9.7.(a) The University of North Carolina at Chapel Hill shall operate the Horace Williams Airport and continue air transportation support for the Area Health Education Center (AHEC) and the public from that location until a replacement facility that is accessible to the University of North Carolina at Chapel Hill becomes operational.

SECTION 9.7.(b) The University of North Carolina at Chapel Hill shall report to the Joint Legislative Commission on Governmental Operations by July 1, 2006, and biannually thereafter, on progress locating a replacement facility for the Area Health Education Center. The Departments of Administration and Transportation shall assist the University of North Carolina at Chapel Hill as needed to secure a replacement facility.

RESTORE BOND FUNDS USED FOR MOLD REMEDIATION

SECTION 9.8.(a) Of the funds appropriated by this act to the Reserve for Repairs and Renovations and allocated to the Board of Governors of The University of North Carolina for the 2004-2005 fiscal year the sum of eight million nine hundred six thousand six hundred forty-two dollars (\$8,906,642) shall be allocated to North Carolina Central University to restore the bond funds that were transferred for mold remediation.

SECTION 9.8.(b) The Board of Governors of The University of North Carolina shall repay the Reserve for Repairs and Renovations for the amount allocated by subsection (a) of this section from the proceeds of any recovery by or on behalf of the Board of Governors or North Carolina Central University as a result of litigation, a legal settlement, or an insurance settlement related to recovering the cost of mold remediation.

NORTH CAROLINA SCHOOL OF THE ARTS EXEMPT FROM THE UMSTEAD ACT

SECTION 9.13. G.S. 66-58(b)(8) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

...

- (8) The ~~Greater~~ University of North Carolina with regard ~~to its~~ to:
- a. The University's utilities and other services now operated by ~~it~~ nor to the it.
 - b. The sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled ~~students~~ nor to the students.
 - c. The sale of meals or merchandise to persons attending meetings or conventions as invited ~~guests~~ nor to the guests.
 - d. The operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or ~~inn~~, nor to the inn.
 - e. The hospital and Medical School of the University of North ~~Carolina~~, nor to the Carolina.
 - f. The Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the ~~State~~, nor to the State.
 - g. The Centennial Campus of North Carolina State University at ~~Raleigh~~, nor to the Raleigh.
 - h. The Horace Williams Campus of the University of North Carolina at Chapel ~~Hill~~, nor to a Hill.
 - i. A Millennial Campus of a constituent institution of The University of North ~~Carolina~~, nor to the Carolina.
 - j. The comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.
 - k. Agreements by the North Carolina School of the Arts to the use of that school's facilities, equipment, and services of students, faculty, and staff for the creation of commercial materials and productions that may be unrelated to educational purposes, so long as the proceeds from those agreements are used for the benefit of the educational mission of the North Carolina School of the Arts.

...."

UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM STUDY

SECTION 9.14. The Board of Governors of The University of North Carolina shall use up to two million dollars (\$2,000,000) of funds appropriated to The University of North Carolina for the 2004-2005 fiscal year for the comprehensive study of the mission and educational program needs for the University System and the Community College System provided for in House Bill 1264 of the 2004 Regular Session of the 2003 General Assembly if that legislation becomes law.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTRALIZE CRIMINAL RECORD CHECK FUNCTIONS

SECTION 10.1. The Department of Health and Human Services shall centralize all activities throughout the Department relating to the coordination and processing of criminal record checks required by law. The centralization shall include the transfer of positions, corresponding State appropriations, federal funds, and other funds. The Department shall implement the centralization beginning January 1, 2005, and shall report on the details of the centralization and implementation 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 January 1, 2005.

STUDY ISSUES RELATED TO MENTALLY ILL RESIDENTS OF LONG-TERM CARE FACILITIES

SECTION 10.2.(a) The Department of Health and Human Services shall work with long-term care providers and advocates for the elderly and the mentally ill to study issues concerning the care of mentally ill individuals residing in long-term care facilities. The study shall include:

- (1) Examining whether current State statutes and Departmental rules adequately address the populations served by long-term care facilities.
- (2) Exploring the development of separate licensure categories within the adult care home and nursing home designations to address the various populations being served.
- (3) Examining adult care home rules to determine whether they are easy to understand, attainable under current staffing patterns, give appropriate guidance to facility operators according to the needs and characteristics of residents served, support residents' freedom of choice, and whether they support the autonomy, dignity, and independence philosophy of assisted living.
- (4) Determining the most effective way to identify mentally ill individuals that have mental health treatment needs.
- (5) Examining the criteria for admission of mentally ill individuals to long-term care facilities to ensure that the health and safety of all residents are safeguarded.
- (6) Providing recommendations for improving the quality of care for mentally ill individuals in adult care homes and nursing homes including the potential cost associated with implementing the recommendations.
- (7) Identifying specific problems that exist due to mixing aging and mentally ill populations.

SECTION 10.2.(b) The Department shall report its findings and recommendations to the North Carolina Study Commission on Aging by October 1, 2005. The Department of Health and Human Services shall include in this report how it defines "mentally ill" for purposes of this study.

AUTOMATIC ENROLLMENT MEDICARE PRESCRIPTION DRUG DISCOUNT CARD

SECTION 10.2B. Notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may enroll senior citizens into the federal Medicare Prescription Drug Discount Program, as follows:

- (1) Current and future participants in the State's Senior Care Prescription Drug Assistance Program whose income is not more than one hundred thirty-five percent (135%) of the federal poverty level are eligible for automatic enrollment.
- (2) Prior to automatic enrollment, the Department shall give any person eligible for automatic enrollment the opportunity to decline automatic enrollment.
- (3) The State's Senior Care Prescription Drug Assistance Program shall be payor of last resort.

CONSOLIDATION OF MANAGEMENT OF IT OPERATIONS, SERVICES, AND FUNCTIONS WITHIN DHHS

SECTION 10.2C.(a) Based upon information gathered by the Department of Health and Human Services in conducting the recently completed department-wide examination and analysis of the Department's information technology infrastructure, including IT expenditures and management structure, the Department shall complete planning and begin implementation of those plans to consolidate management of all IT operations, services, and functions that are common to and necessary in all divisions, offices, and programs of the Department.

SECTION 10.2C.(b) The consolidation and implementation should place emphasis on improving successful and timely implementation of IT projects and ongoing maintenance within the Department while eliminating duplication of efforts and equipment, controlling the use of personal service contracts, establishing continuity in process and systems development, strengthening systems security, coordinating and overseeing all IT efforts within the Department, and identifying other efficiencies. The plan for consolidation of these IT functions shall be implemented in a manner that will allow for the maintenance of a complete accounting of IT efforts within the Department and the costs related to those efforts, including identification of funding needs. The plan should set forth the management and operational structure of the consolidated IT function, including how the structure will enhance IT operations and efficiency within the Department.

SECTION 10.2C.(c) The Department shall restrict the future creation or filling of any IT-related position within any departmental division, office, or program when the function of the position is determined under the consolidation plan to be properly placed or managed within the consolidated IT function.

SECTION 10.2C.(d) The consolidation plan, including time lines for implementation, 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 upon completion, but not later than October 1, 2004. The Department shall provide a report on the progress of implementation of the consolidation 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 on or before March 1, 2005.

DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES

SECTION 10.2D. Pursuant to rules adopted by the State Controller, an employee of the Department of Health and Human Services may, in writing, authorize the Department to periodically deduct from the employee's salary or wages paid for employment by the State, a designated lump sum to be paid to satisfy the cost of services received for child care provided by the Department.

REGULATION OF PHYSICIAN ASSISTANTS RECEIVING, PRESCRIBING, OR DISPENSING FREE PRESCRIPTION DRUGS

SECTION 10.2E.(a) Article 1 of Chapter 90 is amended by adding a new section to read:

"§ 90-18.2A. Physician assistants receiving, prescribing, or dispensing prescription drugs without charge or fee.

The North Carolina Medical Board shall have sole jurisdiction to regulate and license physician assistants receiving, prescribing, or dispensing prescription drugs under the supervision of a licensed physician without charge or fee to the patient. The provisions of G.S. 90-18.1(c)(1), (c)(2), and G.S. 90-85.21(b), shall not apply to the receiving, prescribing, or dispensing of prescription drugs without charge or fee to the patient."

SECTION 10.2E.(b) This section is effective when it becomes law.

NO STATE FUNDS FOR REBIRTHING TECHNIQUE PERFORMED IN ANOTHER STATE

SECTION 10.2F. G.S. 14-401.21 reads as rewritten:

"§ 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.

(c) No State funds shall be used to pay for the rebirthing technique made unlawful by this section and performed in another state notwithstanding that the technique, whether known as a rebirthing technique or referred to by any other name, is lawful in that other state."

COMMUNITY HEALTH GRANT FUNDS

SECTION 10.3(a) Of the funds appropriated in this act for Community Health Grants for the 2004-2005 fiscal year, the sum of five million dollars (\$5,000,000) in nonrecurring funds shall be used for federally qualified health centers and for those health centers that meet the criteria for federally qualified health centers, and the sum of two million dollars (\$2,000,000) shall be used for State-designated rural health centers and public health departments.

- (1) Increase access to preventative and primary care services by uninsured or medically indigent patients in existing or new health center locations;

- (2) Establish community health center services in counties where no such services exist;
- (3) Create new services or augment existing services provided to uninsured or medically indigent patients, including primary care and preventative medical services, dental services, pharmacy, and behavioral health; and
- (4) Increase capacity necessary to serve the uninsured by enhancing or replacing facilities, equipment, or technologies.

Grant funds may not be used to enhance or increase compensation or other benefits of personnel, administrators, directors, consultants, or any other parties. Grant funds may not be used to supplant federal funds traditionally received by federally qualified community health centers and may not be used to finance or satisfy any existing debt.

SECTION 10.3.(b) The Office shall work with the North Carolina Community Health Center Association (hereafter "NCCHCA") and the North Carolina Public Health Association (hereafter "NCPHA") to establish an advisory committee to develop an objective and equitable process for awarding grant funds. The Office shall also develop auditing and accountability procedures. Not more than one percent (1%) of the funds appropriated in this section may be used to reimburse the Office for administering the grant program in collaboration with the NCCHCA and the NCPHA.

SECTION 10.3.(c) Recipients of grant funds shall provide to the Office annually a written report detailing the number of additional uninsured and medically indigent patients that are cared for, the types of services that were provided, and any other information requested by the Office as necessary for evaluating the success of the grant program.

SECTION 10.3.(d) The Office shall work with the NCCHCA and NCPHA to study and present recommendations for continuing funds to support the expansion of community health centers, State-designated rural health centers, and public health departments to serve more of the State's uninsured and indigent population. The Office shall submit the report to the 2005 General Assembly upon its convening.

MEDICAID

SECTION 10.4. Section 10.19 of S.L. 2003-284 reads as rewritten:

"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~~ Wholesale cost plus a dispensing ~~fee~~ fee to the provider.
- (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.~~ Payment for materials is made to a contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency based on industry charges.
- (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~~ services provided by:

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,~~ licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the ~~Carolina ACCESS Community Care of North Carolina primary care physician-physician, a Medicaid-enrolled psychiatrist,~~ or the area mental health program, program or local management entity, 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.
- c. For Medicaid-eligible adults, services provided by 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, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, Medicaid-eligible adults may be self-referred.
- d. Payments made for services rendered in accordance with this subdivision shall be to qualified providers in accordance with approved policies and the State Plan. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to modify the scope of practice of any service provider, practitioner, or licensee, nor to modify or attenuate any collaboration or supervision requirement related to the professional activities of any service provider, practitioner, or licensee. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to require any private health insurer or health plan to make direct third-party reimbursements or payments to any service provider, practitioner, or licensee.
- e. The Department of Health and Human Services shall not enroll licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addiction specialists, and certified clinical supervisors until all of the following conditions have been met:
1. The fiscal impact of payments to these qualified providers has been projected;

2. Funding for any projected requirements in excess of budgeted Division of Medical Assistance funding has been identified from within State funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to support area mental health programs or county programs, or identified from other sources; and
3. Approval has been obtained from the Office of State Budget and Management to transfer these State or other source funds from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to the Division of Medical Assistance. Upon approval and implementation, the Department of Health and Human Services shall, on a quarterly basis, provide a status report to the Office of State Budget and Management and the Fiscal Research Division.

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~~ Orthotics. – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services. Services, except that in order to be eligible for reimbursement providers must be Board certified not later than July 1, 2005. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.
- (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:

<u>Family Size</u>	<u>Categorically Needy</u>	<u>Medically Needy</u>	
	<u>WFFA*</u>	<u>Families and Children Income Level</u>	<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.~~ policy.
- (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 10.5.(a) Section 10.20 of S.L. 2003-284 reads as rewritten:

"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)~~ eighty-six million nine hundred fifty-four thousand two hundred fifty-one dollars (\$86,954,251) 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."

SECTION 10.5.(b) 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 five million dollars (\$5,000,000) for the 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for the implementation of the Medicaid Management Information System (MMIS).

TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID/TECHNICAL CORRECTION

SECTION 10.6. G.S. 108A-58, as amended by Section 10.26 of S.L. 2003-284, 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 the time period 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 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.

(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 and the consequences of the sale, gift, assignment or transfer of such tangible personal property shall be determined under the provisions of subsections (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) Repealed by Session Laws 2003-284, s. 10.26, effective July 1, 2003.

(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."~~

MEDICAID ASSESSMENT PROGRAM FOR ICF/MR FACILITIES

SECTION 10.8.(a) The Secretary of Health and Human Services shall implement a Medicaid assessment program for State ICF/MR facilities and ICF/MR facilities licensed under Chapter 122C 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 on or before October 1, 2004. Funds realized from assessments imposed shall be used only to draw down federal Medicaid matching funds and to implement a rate increase for private ICF/MR facility rates.

SECTION 10.8.(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 private ICF/MR services. The Secretary shall use funds realized from the Medicaid assessment program to reduce State funds appropriated for public ICF/MR services.

SECTION 10.8.(c) Funds realized from the assessment on licensed ICF/MR facilities shall be used to pay one hundred percent (100%) of the nonfederal share for increasing rates for licensed ICF/MR facilities.

SECTION 10.8.(d) The Secretary shall adopt rules to implement this section.

COMMUNITY ALTERNATIVES PROGRAMS

SECTION 10.9.(a) In administering CAP Programs, the Department of Health and Human Services shall ensure that expenditures do not exceed the budget for these programs. The Department shall further ensure that CAP slots are fully allocated and filled in a timely manner within budgeted expenditures and shall ensure that budgeted expenditures are not limited by the nonallocation of or delays in filling CAP slots.

SECTION 10.9.(b) Community Alternatives Programs for Disabled Adults (CAP/DA) services shall be provided for the 2004-2005 fiscal year to any eligible person who entered a nursing facility on or before June 1, 2004, within the existing availability of the county allocation or within the existing availability of services.

PILOT PROGRAM TO TEST NEW APPROACHES TO MANAGING ACCESS TO AND UTILIZATION OF HEALTH CARE SERVICES TO MEDICAID RECIPIENTS

SECTION 10.11. The Department of Health and Human Services shall establish and implement two or more pilot programs to test new approaches to management of access to and utilization of health care services to Medicaid recipients. The purpose of the pilot programs is to determine if additional cost savings can be achieved in addition to that provided by the Community Care of North Carolina program. With respect to at least two of the pilot programs, the Department shall contract with a physician-owned and managed network that has demonstrated success in improving the cost-effectiveness of Medicaid services in at least one state other than North Carolina. The Department shall develop a payment methodology that may include sharing savings with contractors providing medical management services but the methodology shall not allow increased spending relative to current appropriations. The Department may apply for federal waivers necessary to implement this section. The Department shall report on the implementation of the pilot programs 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 February 1, 2005.

PACE PILOT PROGRAM FUNDS

SECTION 10.12.(a) The Department of Health and Human Services, Division of Medical Assistance, shall develop a pilot program to implement the Program for All-Inclusive Care for the Elderly (PACE). One pilot site shall be planned for the southeastern area of the State and the other pilot site shall be planned for the western area of the State. The Division shall design the pilot program to access federal Medicaid and Medicare dollars to provide acute and long-term care services for older patients through the use of interdisciplinary teams. When implemented, services provided through the PACE pilot program may include physician visits, drugs, rehabilitation services, personal care services, hospitalization, and nursing home care. The PACE pilot program may also offer social services intervention, case management, respite care, or extended home care nursing.

SECTION 10.12.(b) Of the funds appropriated to the Department of Health and Human Services, Division of Medical Assistance, for the 2004-2005 fiscal year, the sum of one hundred twenty-three thousand one hundred fifty-six dollars (\$123,156) shall be used to support two positions in the Division of Medical Assistance to develop the pilot programs in accordance with subsection (a) of this section. These

funds may also be used to contract for actuarial analysis as part of the development of the pilot programs.

SECTION 10.12.(c) The Department of Health and Human Services shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services on March 1, 2005, on PACE pilot program development. The report shall include services proposed to be offered under the pilot program, administrative structure of the pilot program, number of Medicare and Medicaid eligible recipients anticipated to receive services from the PACE pilot sites, and the projected savings to the State from PACE pilot program implementation.

SECTION 10.12.(d) Nothing in this section obligates the General Assembly to appropriate funds to implement the PACE program statewide.

DHHS STUDY MEDICAID INSTITUTIONAL BIAS

SECTION 10.13.(a) The Department of Health and Human Services shall contract with an independent entity to study whether the State's Medicaid program has a bias that favors support for individuals in institutional settings over support for individuals living at home and, if a bias is found, to determine and recommend ways to alleviate the bias. The entity selected by the Department shall be one that has documented experience in conducting similar studies. The study shall include consideration of all in-home services paid under the State's Medicaid program, including CAP/DA, home health, and personal care services. The Department shall report the results of the study to the North Carolina Study Commission on Aging by January 2005.

SECTION 10.13.(b) From State and federal funds available to the Department of Health and Human Services for the 2004-2005 fiscal year, the sum of one hundred fifty thousand dollars (\$150,000) may be used to fund the study required by this section.

FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.17. Section 10.46 of S.L. 2003-284 reads as rewritten:

"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~~\$390.00 per child per month for children aged birth through 5;
- (2) ~~\$415.00~~\$440.00 per child per month for children aged 6 through 12;
and
- (3) ~~\$465.00~~\$490.00 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~~\$390.00 per child per month for children aged birth through 5;
- (2) ~~\$415.00~~\$440.00 per child per month for children aged 6 through 12;
and
- (3) ~~\$465.00~~\$490.00 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 10.18. Section 10.47 of S.L. 2003-284 reads as rewritten:

"**SECTION 10.47.(a)** Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one hundred thousand dollars (\$100,000) shall be used to support the Special Children Adoption Fund for the 2004-2005 fiscal year. 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.

"**SECTION 10.47.(c)** The Division of Social Services shall monitor the total expenditures in the Special Children Adoption Fund and redistribute unspent funds to ensure that the funds are used according to the guidelines established in subsection (a) of this section. The Division shall implement strategies to ensure that funds that have historically reverted for this program are used for the intended purpose. The Division 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 the expenditures and activities of the program no later than December 1, 2004, and June 30, 2005."

FUNDS FOR CHILD PROTECTIVE SERVICES STAFF

SECTION 10.19. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of four million dollars (\$4,000,000) shall be used to hire additional child protective services staff at the local level for the 2004-2005 fiscal year. The Division of Social Services shall distribute the funds based on a funding formula that shall address the needs of counties that have high caseload per child protective services worker ratios. These funds shall not be used to supplant any other source of funding for staff. These funds shall be used to increase the number of child protective services workers throughout the State and shall be used to pay for

salaries and related expenses only. The Department of Health and Human Services shall report on the use of these funds 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 no later than January 1, 2005.

TANF BENEFIT IMPLEMENTATION

SECTION 10.19A. Section 10.49(a) of S.L. 2003-284 reads as rewritten:

"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~~section, except that the provision contained in the approved North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005 eliminating pay-after-performance as a benefit delivery method for two-parent families will only be implemented if the federal two-parent work participation rate is eliminated. 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."

IV-E CHILD CARING INSTITUTIONS

SECTION 10.19B. The Department of Health and Human Services shall work with the federal government and child caring institutions to ensure that adequate funds are available to support child caring institution operations.

LONG-TERM CARE FACILITY CRIMINAL RECORD CHECKS

SECTION 10.19D.(a) G.S. 131E-265(a) and 131E-265(a1) read as rewritten:

"§ 131E-265. Criminal history record checks required for certain applicants for employment.

(a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of

this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a nursing home or home care agency shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the nursing home or home care agency the results of the national criminal history check. Nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer of employment by a contract agency of a nursing home or home care agency licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of a nursing home or home care agency shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the contract agency of

the nursing home or home care agency the results of the national criminal history check. Contract agencies of nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...."

SECTION 10.19D.(b) G.S. 131D-40(a) and 131D-40(a1) read as rewritten:

"§ 131D-40. Criminal history record checks required for certain applicants for employment.

(a) Requirement; Adult Care Home. – An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an adult care home shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G. S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the adult care home the results of the national criminal history check. Adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of an adult care home shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a State or national criminal history record

check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the contract agency of the adult care home the results of the national criminal history check. Contract agencies of adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...."

SECTION 10.19D.(c) G.S. 122C-80(b) reads as rewritten:

"§ 122C-80. Criminal history record check required for certain applicants for employment.

...

(b) Requirement. – An offer of employment by an area authority licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An area authority shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Except as otherwise provided in this subsection, within five business days of making the conditional offer of employment, an area authority shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this section. Notwithstanding G. S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the area authority the results of the national criminal history check. Area authorities shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. A county that has adopted an appropriate local ordinance and has access to the Division of Criminal Information data bank may conduct on behalf of an area authority a State criminal history record check required by this section without the area authority having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the area authority. All criminal history information received by the area authority is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section.

...."

SECTION 10.19D.(d) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Facility Services, the sum of two hundred thousand dollars (\$200,000) for the 2004-2005 fiscal year shall be used to carry out the duties under this Section.

SECTION 10.19D.(e) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two hundred fifty thousand dollars (\$250,000) for the 2004-2005 fiscal year shall be transferred to the Department of Justice. These funds shall be used to expedite the processing of criminal record checks by upgrading the billing system.

SECTION 10.19D.(f) Of the funds available to the Department of Health and Human Services for the 2004-2005 fiscal year, the sum of thirty-four thousand dollars (\$34,000) shall be transferred to the Department of Justice. These funds shall be used for additional office space needed to carry out the requirements of this section. It is the intent of the General Assembly that this transfer of funds shall be for one year only after which funds needed for continuing expenses shall be included in the Department of Justice continuation budget recommendation.

SECTION 10.19D.(g) G.S. 131D-40(d) reads as rewritten:

"(d) Relevant Offense. – As used in this section, 'relevant offense' means a State crime, county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of aged or disabled persons. These 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. These 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."

SECTION 10.19D.(h) G.S. 122C-80(e) reads as rewritten:

"(e) Relevant Offense. – As used in this section, 'relevant offense' means a State crime, county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of persons needing mental health, developmental disabilities, or substance abuse services. These 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. These 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."

SECTION 10.19D.(i) Subsections (a) through (c) of this section become effective January 1, 2005. The remainder of this section becomes effective July 1, 2004.

ADULT DAY SERVICES TRAINING AND REIMBURSEMENT METHODOLOGY

SECTION 10.21.(a) In an effort to support and sustain adult day services in North Carolina, the Department of Health and Human Services shall contract with a national adult day services resource center to provide training and consultation to adult day services providers and State and county adult day services consultants. The selected consultant shall study the current method of reimbursement for adult day services and make recommendations regarding changes to the reimbursement methodology. The final report shall be presented to the Study Commission on Aging by January 1, 2005.

SECTION 10.21.(b) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of up to two hundred fifty thousand dollars (\$250,000) for the 2004-2005 fiscal year shall be used to implement this section.

STATE/COUNTY SPECIAL ASSISTANCE

SECTION 10.21A. Effective October 1, 2004, the maximum monthly rate for residents in adult care home facilities shall be one thousand eighty-four dollars (\$1,084) per month per resident unless adjusted by the Department in accordance with Section 10.52(f) of S.L. 2003-284.

ADMINISTRATION OF REDUCTION IN FUNDS TO AREA AUTHORITIES

SECTION 10.22. In administering the two-million-dollar (\$2,000,000) reduction in funds to area programs enacted in this act, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall do the following:

- (1) Apply the reduction to area authority funds that have reverted in each of the past two fiscal years; and
- (2) Apportion the area authority reduction across disability groups by the proportion of the total funds reverted for each disability fund code in fiscal year 2003-2004.

DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 10.22A. The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in cooperation with area mental health authorities and county programs, identify and eliminate administrative and fiscal barriers created by existing State and local policies and procedures in the delivery of community-based mental health, developmental disabilities, and substance abuse services provided through the area programs and county programs, including services provided through the Comprehensive Treatment Services Program for Children and services delivered to multiply diagnosed adults. The Department shall implement changes in policies and procedures in order to facilitate all of the following:

- (1) The provision of services to adults and children as defined in the Mental Health System Reform State Plan as priority or targeted populations.
- (2) A revised system of allocating State and federal funds to area mental health authorities and county programs that reflects projected needs, including the impact of system reform efforts rather than historical allocation practices and spending patterns.
- (3) The provision of services to children not deemed eligible for the Comprehensive Treatment Services Program for Children, but who would otherwise be in need of medically necessary treatment services to prevent out-of-home placement.
- (4) The provision of services in the community to adults remaining in and being placed in State institutions addressed in Olmstead v. L.C.

Area mental health, developmental disabilities, and substance abuse services authorities and county programs shall use all funds appropriated for and necessary to provide mental health, developmental disabilities, and substance abuse services to meet the need for these services. If excess funds are available after expending appropriated funds to fully meet service needs, one-half of these excess funds shall not revert to the General Fund but shall be transferred to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, except that one-half of the funds appropriated for the Comprehensive Treatment Services Program for Children that are unexpended and unencumbered shall not revert to the General Fund but shall be carried forward and used only for services for children and adolescents.

The Department, in consultation with the area mental health authorities and county programs, 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 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the progress in implementing these changes. The report shall be submitted on October 1, 2004, and February 1, 2005.

FUNDS FOR PATH PROGRAM RESIDENCE PURCHASE

SECTION 10.23. The Department of Health and Human Services may use up to five hundred thousand dollars (\$500,000) from the Trust Fund for Mental

Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to purchase an existing house or other residential facility, and the land on which the house or facility is located, for use by the PATH Program at the Murdoch Center.

USE OF MENTAL HEALTH TRUST FUND MONIES FOR CAPITAL IMPROVEMENTS AND EXPANSIONS AT ADACT CENTERS

SECTION 10.24. Of the funds appropriated to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs for the 2004-2005 fiscal year, not more than three million five hundred thousand dollars (\$3,500,000) may be used by the Department of Health and Human Services for capital improvements and capital expansions at the State's Alcohol and Drug Abuse Treatment Centers (ADACT) in accordance with G.S. 143-15D.

AREA PROGRAM AND COUNTY PROGRAM TRANSITION FLEXIBILITY

SECTION 10.26.(a) G.S. 122C-115(a) reads as rewritten:

"(a) A county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to G.S. 122C-115.1. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control. If a county that is a member of an area authority determines to provide its services through a county program or through a multicounty program, it may, with the agreement of the other counties comprising the area authority and the approval of the Secretary, simultaneously participate in a county program or a multicounty program while remaining a participating member of the area authority until the end of the subsequent fiscal year."

SECTION 10.26.(b) This section is effective upon ratification and expires on July 1, 2005.

DOROTHEA DIX MASTER PLAN

SECTION 10.26A.(a) S.L. 2003-314 is amended by adding a new section to read:

"SECTION 3.4.(a1) The State Property Office, in consultation with the City of Raleigh, shall develop a Master Plan for the Dorothea Dix Campus. The State Property Office shall hire a consultant to assist with the development of the Master Plan. The State Property Office shall examine, among other things, operations for land conservation, mixed-use development, and anticipated State office space needs. The Master Plan shall reflect both State needs and local considerations. The State Property Office shall submit the Master Plan to the Dorothea Dix Property Study Commission no later than April 1, 2005. The Commission shall review the Master Plan and shall make recommendations to the 2005 General Assembly.

In order to enhance communication and feedback regarding the planning process, an oversight committee shall be established to oversee the development of the Master Plan. The oversight committee shall consist of five members: three shall be appointed by the Cochairs of the Dorothea Dix Property Study Commission; one shall be appointed by the Raleigh City Council; and one shall be appointed by the Wake County Board of Commissioners. The oversight committee shall terminate upon the submission of the Master Plan to the Dorothea Dix Property Study Commission."

SECTION 10.26A.(b) Section 3.4(a) of S.L. 2003-314 reads as rewritten:

"**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~~Operations, the 2005 General Assembly, and the Appropriations Committees of the Senate and the House of Representatives before any sale of any or all parts of the property. The Commission shall terminate upon submission of its final report."

SECTION 10.26A.(c) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of one hundred thousand dollars (\$100,000) for the 2004-2005 fiscal year shall be transferred to the Department of Administration, State Property Office. These funds shall be used to develop a Master Plan for the Dorothea Dix Property.

DHHS CENTRAL OFFICE CONTRACTS REDUCTION

SECTION 10.26B. Reductions in funds appropriated to the Department of Health and Human Services for the 2004-2005 fiscal year for technical assistance, training, and service contracts through the Central Office of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall not apply to the contract with the North Carolina High School Athletics Association.

MENTAL HEALTH TREATMENT COURTS

SECTION 10.27.(a) The Administrative Office of the Courts shall establish pilot programs in judicial districts 15B, 26, and 28 that add a mental health treatment component to the existing drug treatment courts in those districts, thereby expanding those courts into therapeutic court programs aimed at providing treatment to repeat adult offenders with needs for either mental health or substance abuse services. The purpose of the mental health treatment component of the pilot programs is to facilitate cooperation between the State mental health system, mental health service providers, and the judicial system in order for the State mental health system to provide repeat adult offenders that need mental health services with treatment and other mental health services aimed at improving their ability to function in the community, thereby reducing recidivism and easing the workload of the courts.

In expanding the drug treatment courts in these districts into therapeutic courts under this section, the Administrative Office of the Courts and the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall collaborate on a plan for the structure of the court process, treatment services provided by area authorities or county programs and other appropriate mental health service providers, and administration of the pilot programs. Treatment services provided under the mental health treatment court component shall use best treatment practices approved by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. The collaborative effort required under this section shall also include consideration of the effectiveness and efficiency of the mental health treatment court component to determine feasibility of the statewide expansion of drug treatment courts into therapeutic courts.

SECTION 10.27.(b) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Chairs of the Senate and House Appropriations Subcommittees on Health and Human

Services by March 1, 2005, on the implementation of the therapeutic treatment court pilot programs provided for in this section, including an evaluation of the effectiveness of the new mental health treatment component of those programs and recommendations on the feasibility and desirability of expanding the existing drug treatment court program into a statewide therapeutic court program.

SECTION 10.27.(c) There is appropriated from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to the Judicial Department the sum of thirty-six thousand one hundred sixty-one dollars (\$36,161) for the 2004-2005 fiscal year. These funds shall be used for administrative costs associated with expanding the Drug Treatment Court to serve adult repeat offenders who are within the targeted population for mental health, developmental disabilities, and substance abuse services as defined in G.S. 122C-3(38).

SECTION 10.27.(d) There is appropriated from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of one hundred thirty-seven thousand nine hundred forty dollars (\$137,940) for the 2004-2005 fiscal year. These funds shall be used for mental health treatment services to repeat adult offenders within the targeted population for mental health, developmental disabilities, and substance abuse services as defined in G.S. 122C-3(38).

SECTION 10.27.(e) Of the funds appropriated in this act to the Judicial Department, the sum of twenty thousand dollars (\$20,000) for the 2004-2005 fiscal year shall be used to obtain an independent evaluation of the effectiveness of the pilot programs authorized under this section.

SECTION 10.27.(f) A county may appropriate county or other non-State funds to expand mental health services to adult repeat offenders served by the pilot programs for mental health treatment established under subsection (a) of this section. No State funds appropriated for this section shall be used to provide mental health services to nontargeted population adult repeat offenders.

PUBLIC HEALTH IMPROVEMENTS

SECTION 10.28A.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of fifty thousand dollars (\$50,000) for the 2004-2005 fiscal year shall be allocated to accredited local public health agencies for one or more of the following purposes:

- (1) To facilitate the creation of Quality Officers in each agency to oversee the quality improvement structure and process, develop and ensure compliance with the agency's quality improvement plan against internal and external requirements, develop critical incident reporting and management plans, assess organizational and workforce development gaps, and oversee the accreditation process.
- (2) To facilitate the development of private or public partnerships through contracts, interlocal agreements, memoranda of understanding, and community grants.
- (3) To provide incentives to agencies to collaborate and partner with other counties in the development of regional public health incubators to improve service delivery, organization, and preparedness.
- (4) To enable accredited agencies to assist other counties in their efforts to achieve public health accreditation.

- (5) To promote partnerships between local agencies and universities through development of academic health departments.
- (6) To provide incentives to develop local and regional business plans to create hybrid health departments, including public health authorities and public health districts, and identify new sources of public health revenue.
- (7) To create community health plans to improve community health and reduce health disparities, including the creation of a Community Wellness Index.
- (8) To strengthen the role of local boards of health through training, technical assistance, and consultation.
- (9) To create public internships at the local level.
- (10) To support new insights and innovative solutions to health problems that will result in improved quality, greater accountability, improved health outcomes, and the elimination of health disparities.

SECTION 10.28A.(b) The Department shall report on the accreditation process 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 no later than January 1, 2005.

PILOT PROCESS FOR LOCAL HEALTH DEPARTMENTS

SECTION 10.28B.(a) The Department of Health and Human Services shall expand the pilot accreditation process for local health departments to include additional counties.

SECTION 10.28B.(b) The Pilot Accreditation Advisory Board (hereafter "Advisory Board") is established within the North Carolina Institute for Public Health. The Advisory Board shall be composed of 15 members appointed by the Secretary of Health and Human Services as follows:

- (1) Four shall be county commissioners recommended by the North Carolina Association of County Commissioners, and four shall be members of a local board of health as recommended by the North Carolina Association of Local Boards of Health.
- (2) Two local health directors.
- (3) One staff member from the Department of Health and Human Services, Division of Public Health.
- (4) Three members at large.
- (5) One recommended by the Secretary of Environment and Natural Resources, from the Division of Environmental Health.

SECTION 10.28B.(c) Members of the Advisory Board who are not officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Advisory Board who are officers or employees of the State shall receive reimbursement for travel and subsistence at the rate set out in G.S. 138-6.

SECTION 10.28B.(d) The Advisory Board shall evaluate the Department's pilot accreditation process for local health departments, including the following:

- (1) The standards by which the pilot local health departments are judged.
- (2) The self-assessment process used by the pilot counties.
- (3) The process for local site reviews and appeals.

- (4) The makeup of the proposed State accrediting entity and its relationship to the Department.
- (5) The cost of meeting the accreditation standards in the pilot counties.

SECTION 10.28B.(e) Of the funds appropriated in this act to the Department of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the 2004-2005 fiscal year shall be allocated for administrative costs and for activities of the Pilot Accreditation Advisory Board for the accreditation of additional local health departments. The Department shall contract with the Institute for Public Health, which shall be responsible for implementation of the pilot accreditation process.

SECTION 10.28B.(f) Not later than April 1, 2005, the Pilot Accreditation Advisory Board shall report its findings to the Director of the Institute for Public Health, the Secretary of the Department of Health and Human Services, and the cochairs of the House and Senate Appropriations Committees for Health and Human Services.

SECTION 10.28B.(g) The North Carolina Public Health Task Force 2004 shall continue its work on the Public Health Improvement Plan and in its final report to the General Assembly shall include comparisons of the recommendations of the Task Force with the Model State Public Health Act, Public Health Statute Modernization National Excellence Collaborative, September 2003.

EARLY INTERVENTION REPORTING REQUIREMENT

SECTION 10.29. The Department of Health and Human Services, Division of Public Health, shall track and report on the number of children referred to the Early Intervention program through Department of Social Services abuse and neglect agents. The report shall include the number and types of services provided to these children and the fiscal impact to the program. The Department shall submit a 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 by January 30, 2005.

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

SECTION 10.30. Section 10.31 of S.L. 2003-284 reads as rewritten:

"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~~, January 1, 2005, and a final report on ADAP program utilization by ~~May 1, 2004~~, May 1, 2005, 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."

MAXIMIZE ADAP PROGRAM FUNDING

SECTION 10.31. The Department of Health and Human Services shall budget all 340B rebates received from pharmaceutical purchases for the AIDS Drug Assistance Program (ADAP) for use in the ADAP program. The Department shall consider changing the ADAP program to a six-month eligibility process in its effort to control costs. If, after consideration, it is determined that a savings will occur, the Department shall implement the change. The Department shall report on its findings 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 in its January report.

NORTH CAROLINA PUBLIC HEALTH DEPARTMENT INCUBATORS

SECTION 10.32.(a) There is appropriated from the General Fund to the Department of Health and Human Services the sum of one million one hundred twenty-five thousand dollars (\$1,125,000) for the 2004-2005 fiscal year. These funds shall be allocated to the North Carolina Institute for Public Health, School of Public Health at the University of North Carolina at Chapel Hill to coordinate the development of "public health incubators." Core participants in these incubators will be local public health departments in selected underserved regions. Other governmental agencies and nonprofit organizations will also be invited to participate. The funds shall be used to:

- (1) Establish or strengthen the capacity to conduct epidemiological investigation and to actively monitor public health conditions, diseases, and risk factors.
- (2) Establish or strengthen the capacity to monitor health disparities and to develop plans to reduce those disparities.
- (3) Conduct regional community health assessments with the assistance of other members of the public health community including other governmental agencies and nonprofit organizations, to establish partnership health priorities based on these findings, and to draft public health interventions to address the highest health priorities.
- (4) Raise public awareness of the health-related issues in partnership communities, collaborating with members of the larger public health community and with local and State media, reporting health issues to the county commissioners, the boards of health, legislators, at-risk groups, and to the community at large.
- (5) Provide regular, supplemental training to members of the participating boards of health to inform them about their overall responsibilities including their role in policy development, to introduce them to

evidence-based best practices in public health with an emphasis on collaborative initiatives, and to update them on emerging public health issues, particularly those that are of greatest concern to their communities.

- (6) Conduct workforce preparedness assessments and follow-on training for the public health workforce in the pilot regions and to establish or supplement policy to facilitate effective responses to public health emergencies where appropriate.
- (7) Establish a formal, systematic review of the incubators to track and evaluate the efficacy of roles, organization, and programs, to identify best practices, and to develop recommendations for improvement based on these findings.

SECTION 10.32.(b) The Department of Health and Human Services shall report on the use of these funds and an evaluation of the incubator efforts 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 Department shall submit the report not later than January 14, 2005.

FUNDS FOR SCHOOL NURSES

SECTION 10.33. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of four million dollars (\$4,000,000) shall be used for a school nurse funding initiative. The Department of Health and Human Services, Division of Public Health, in conjunction with the Department of Public Instruction, shall provide funds to communities to hire school nurses. The program will fund 80 permanent local nurses. The criteria shall include determining the areas in the greatest need for school nurses with the greatest inability to pay for these nurses. Other criteria to be considered shall include: (i) the current nurse-to-student ratio; (ii) the economic status of the community; and (iii) the health needs of area children.

There shall be no supplanting of local, State, or federal funds with these funds. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used for funding nurses for State agencies. All funding shall be used for direct services.

The Department of Health and Human Services shall report on the use of funds allocated under this section by December 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.

HOSPITAL EMERGENCY DEPARTMENT DATA REPORTING

SECTION 10.34.(a) Effective January 1, 2005, G.S. 130A-476(f) is repealed.

SECTION 10.34.(b) Effective January 1, 2005, Article 22 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

§ 130A-480. Emergency department data reporting.

(a) For the purpose of ensuring the protection of the public health, the State Health Director shall develop a syndromic surveillance program for hospital emergency departments in order to detect and investigate public health threats that may result from

(i) a terrorist incident using nuclear, biological, or chemical agents or (ii) an epidemic or infectious, communicable, or other disease. The State Health Director shall specify the data to be reported by hospitals pursuant to this program, subject to the following:

- (1) Each hospital shall submit electronically available emergency department data as specified by rule by the Commission. The Commission, in consultation with hospitals, shall establish by rule a schedule for the implementation of full electronic reporting capability of all data elements by all hospitals. The schedule shall take into consideration the number of data elements already reported by the hospital, the hospital's capacity to electronically maintain the remaining elements, available funding, and other relevant factors.
- (2) None of the following data for patients or their relatives, employers, or household members may be collected by the State Health Director: names; postal or street address information, other than town or city, county, state, and the first five digits of the zip code; geocode information; telephone numbers; fax numbers; electronic mail addresses; social security numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators (URLs); Internet protocol (IP) address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(b) The following are not public records under Chapter 132 of the General Statutes and are privileged and confidential:

- (1) Data reported to the State Health Director pursuant to this section.
- (2) Data collected or maintained by any entity with whom the State Health Director contracts for the reporting, collection, or analysis of data pursuant to this section.

The State Health Director shall maintain the confidentiality of the data reported pursuant to this section and shall ensure that adequate measures are taken to provide system security for all data and information. The State Health Director may share data with local health departments for public health purposes, and the local health departments are bound by the confidentiality provisions of this section. The State Health Director shall not allow information that it receives pursuant to this section to be used for commercial purposes and shall not release data except as authorized by other provisions of law.

(c) A person is immune from liability for actions arising from the required submission of data under this Article.

(d) For purposes of this section, "hospital" means a hospital, as defined in G.S. 131E-214.1(3), that operates an emergency room on a 24-hour basis. The term does not include a psychiatric hospital subject to Article 2 of Chapter 122C of the General Statutes.

(e) Administrative emergency department data shall be reported by hospitals under Article 11A of Chapter 131E of the General Statutes."

SECTION 10.34.(c) This section is effective when this act becomes law.

AUTHORIZE CHILD CARE COMMISSION TO ADOPT RULES FOR CHILD CARE FACILITIES FOR MEDICALLY FRAGILE CHILDREN

SECTION 10.35. G.S. 110-88 is amended by adding a new subdivision to read:

"The Commission shall have the following powers and duties:

...

(13) To adopt rules for child care facilities that provide care for medically fragile children.

...."

CRIMINAL HISTORY RECORD CHECKS FOR LOCAL CHILD CARE CENTERS

SECTION 10.36. It is the intent of the General Assembly that the Division of Child Development be able to conduct criminal history record checks for local child care centers in an expedient manner during the 2004-2005 fiscal year. The Division of Child Development shall use lapsed salary funds to support up to three additional temporary positions during fiscal year 2005 to eliminate the backlog and keep current the criminal history record checks process. The Office of State Budget and Management and the Department of Health and Human Services shall expedite the approval process for these temporary positions.

INCREASE NORTH CAROLINA PARTNERSHIP FOR CHILDREN BOARD MEMBERSHIP

SECTION 10.37. 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~~26 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~~ Representatives; and
- n. The Director of the More at Four Pre-Kindergarten Program, or the Director's designee.

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 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."

MORE AT FOUR PROGRAM

SECTION 10.38. Section 10.40 of S.L. 2003-284 reads as rewritten:

"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)~~ fifty million nine hundred seventy-nine thousand two dollars (\$50,979,002) 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.~~

The "More At Four" program shall review the number of slots filled by counties on a monthly basis and shift the unfilled slots to counties with waiting lists. The shifting of slots shall occur through January 30, 2005, at which time any remaining funds for slots unfilled shall be transferred to the Division of Child Development to meet the needs of the waiting list for subsidized child care.

"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,~~ January 1, 2005, and May 30, 2005, 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.

"SECTION 10.40.(f) Beginning in the 2004-2005 fiscal year, the "More At Four" program shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income to make the program consistent with the child care subsidy requirements. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors.

"SECTION 10.40.(g) The "More At Four" program funding shall not supplant any funding for classrooms serving four-year-olds as of the 2003-2004 fiscal year."

AGAPE OF NORTH CAROLINA, INC., ON THE LIST OF AGENCIES ELIGIBLE TO RECEIVE FUNDING FROM STATE FUNDS PROGRAM

SECTION 10.39. The Division of Social Services, within the Department of Health and Human Services, shall include Agape of North Carolina, Inc., on its list of member agencies eligible to receive funding from the State Funds Program. Agape of North Carolina, Inc., shall be reimbursed for allowable expenditures from the State Fund For Child Caring Institutions for the uncompensated cost of care. Funding for Agape of North Carolina, Inc., shall be based on the current funding methodology applied to other eligible providers that have historically been reimbursed for expenditures with funds from the State Funds Program.

CHILD CARE ALLOCATION FORMULA

SECTION 10.40 Section 10.36 of S.L. 2003-284 is amended by adding a new subsection to read:

"SECTION 10.36.(c) Notwithstanding subsection (a) of this section, of the funds appropriated in this act to the Department of Health and Human Services for the 2004-2005 fiscal year to increase State and federal Block Grant funds for subsidized child care services, the Department may allocate those funds for the 2004-2005 fiscal year in order to prevent termination of services."

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SALE OF UMSTEAD FARM DAIRY HERD AND USE OF PROCEEDS

SECTION 11.1.(a) The Department of Agriculture and Consumer Services may sell the dairy herd, including embryos and semen inventories, at the Umstead Farm Unit in Butner and may place the proceeds of the sale in a nonreverting special revenue fund within the Department. This fund shall be used only for any one or more of the following purposes:

- (1) To relocate the milking parlor equipment and nutrition barn from the Umstead Farm Unit to the Piedmont Research Station in Salisbury.

- (2) To purchase additional dairy animals to fully utilize dairy facilities located at the Piedmont Research Station in Salisbury.
- (3) To purchase or construct grain and feed storage facilities and to purchase equipment and supplies necessary for dairy research at the dairy units operated by the Department.
- (4) To demolish or remove unneeded or obsolete dairy buildings at the Umstead Farm Unit or for the closure of any animal waste management system located at the Umstead Farm Unit.

SECTION 11.1.(b) The proceeds in the special revenue fund under subsection (a) of this section are appropriated to the Department of Agriculture and Consumer Services for the 2004-2005 fiscal year to be used for the purposes under subsection (a) of this section.

SECTION 11.1.(c) Beginning with the 2005-2007 biennium, the special revenue fund established under subsection (a) of this section shall be included in the Governor's recommended budget.

STUDY OPERATIONS, FUNDING, AND EFFICIENCIES FOR DACS RESEARCH STATIONS

SECTION 11.2.(a) The Department of Agriculture and Consumer Services and the Agricultural Research Service, North Carolina State University, in consultation with the Fiscal Research Division, shall study the 18 research stations within the Department of Agriculture and Consumer Services, including the differences as to how the Department of Agriculture and Consumer Services and the Agricultural Research Service fund and operate the facilities sponsored by each, the differences as to how the Department of Agriculture and Consumer Services and the Agricultural Research Service allocate federal grant funds for administration of the research stations, and the efforts of the Department of Agriculture and Consumer Services and the Agricultural Research Service to collaborate on providing necessary funding and management of the research stations.

SECTION 11.2.(b) No later than December 15, 2004, the Department of Agriculture and Consumer Services and the Agricultural Research Service, North Carolina State University, in consultation with the Fiscal Research Division, shall prepare a final joint report of the findings and recommendations of the study and submit this report to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division.

PART XI-A. DEPARTMENT OF LABOR

DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM

SECTION 11A.1. The Department of Labor may use up to four hundred ninety-nine thousand six hundred twelve dollars (\$499,612) of indirect cost receipts deposited in the Individual Development Account (IDA) Fund for the 2004-2005 fiscal year to partly restore funding for the Apprenticeship Program.

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

GRASSROOTS SCIENCE PROGRAM

SECTION 12.1.(a) Section 11.1 of S.L. 2003-284 is repealed.

SECTION 12.1.(b) Funds appropriated to the Department of Environment and Natural Resources for the Grassroots Science Program for the 2004-2005 fiscal year shall be allocated as follows:

Aurora Fossil Museum	\$56,691
Cape Fear Museum	\$185,501
Carolina Raptor Center, Inc.	\$95,370
Catawba Science Center	\$134,932
Colburn Gem and Mineral Museum, Inc.	\$66,862
Discovery Place	\$624,536
Fascinate-U Children's Museum	\$81,720
Granville County Museum Commission, Inc. – Harris Gallery	\$55,886
Greensboro Children's Museum	\$131,105
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$121,131
Highlands Nature Center	\$73,536
Imagination Station	\$85,316
Iredell County Children's Museum	\$56,618
KidSenses, Inc.	\$50,000
Museum of Coastal Carolina	\$69,315
Natural Science Center of Greensboro	\$183,446
North Carolina Museum of Life and Science	\$388,359
Rocky Mount Children's Museum	\$72,815
Schiele Museum of Natural History	\$234,566
Sci Works Science Center and Environmental Park of Forsyth County	\$147,600
Western North Carolina Nature Center	\$118,594
Wilmington Children's Museum, Inc.	\$63,864
Total	\$3,097,762

SECTION 12.1.(c) No later than January 15, 2005, the Department of Environment and Natural Resources shall report to the Fiscal Research Division the following information for each museum that receives funds under subsection (b) of this section:

- (1) The operating budget for the 2004-2005 fiscal year.
- (2) The proposed operating budget for the 2005-2006 fiscal year.
- (3) The total attendance at the museum during the 2004 calendar year.

TWENTY-FOUR-HOUR ACCESS TO FORT FISHER STATE RECREATION AREA DURING THE FALL AND WINTER/FUNDS FOR DEPARTMENT STUDY/ACTIVITIES AT FORT FISHER

SECTION 12.3.(a) G.S. 113-35 is amended by adding a new subsection to read:

"(b1) Members of the public who pay a fee under subsection (b) of this section for access to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State Recreation Area from September 15 through March 15 of each year."

SECTION 12.3.(b) The Department of Environment and Natural Resources shall conduct a study of vehicle use at Fort Fisher State Recreation Area. In preparing the study, the Department shall consult with experts in fields pertinent to this study at the University of North Carolina at Wilmington. This study shall consider and determine in its findings the demand for vehicle access to the beach at Fort Fisher State Recreation Area during different times of the year. This study also shall include a review of scientific studies on the impact of vehicle use on sea turtles and nesting seabirds and shorebirds. This study shall provide an opportunity for comment from interested citizens. This study shall include in its report its findings on sea turtle and bird nesting activity at Fort Fisher State Recreation Area as compared with nesting activity on the adjoining beach that is managed by Bald Head Conservancy and on Masonboro Island and an analysis of the economic impact of restricting 24-hour vehicle access to the beach at Fort Fisher State Recreation Area. No later than February 1, 2005, the Department shall report its findings under this subsection, any other pertinent findings, and any recommendations or legislative proposals to the Environmental Review Commission.

SECTION 12.3.(c) Of the funds appropriated to the Department of Environment and Natural Resources for the 2004-2005 fiscal year, the sum of twenty-five thousand dollars (\$25,000) shall be used for the costs to the Department of conducting the study under subsection (b) of this section and for education, conservation, and enforcement activities by the Department at Fort Fisher State Recreation Area.

ACCOUNTING FOR WILDLIFE RESOURCES COMMISSION REVENUE

SECTION 12.4.(a) The Director of the Budget and the State Controller shall review the accounts of the Wildlife Resources Commission. The Director of the Budget and the State Controller shall establish accounts, or make any changes to existing accounts, of the Wildlife Resources Commission as needed to segregate revenue affected by the requirements or conditions of federal law from revenue that is not affected by the requirements or conditions of federal law.

SECTION 12.4.(b) No later than April 1, 2005, the Director of the Budget and the State Controller shall jointly report to the Fiscal Research Division the actions taken under subsection (a) of this section and any conforming statutory changes needed to reflect the accounts of the Wildlife Resources Commission.

WILDLIFE RESOURCES COMMISSION TEMPORARY EXEMPTION OF SURPLUS PROPERTY/RECYCLABLE MATERIAL FEE

SECTION 12.5. Notwithstanding G.S. 143-64.02(1), the Wildlife Resources Commission is not subject to the payment of fees under G.S. 143-64.05 for the acquisition, receipt, warehousing, distribution, or transfer prior to July 20, 2004, of surplus property or for the transfer or sale prior to July 20, 2004, of recyclable material.

COST SHARE FUNDS FOR LIMITED RESOURCE FARMERS CLARIFICATION

SECTION 12.6. G.S. 143-215.74(b)(9) reads as rewritten:

"(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 annual gross farm sales that do not exceed one hundred thousand dollars (\$100,000)-(\$100,000) and with an adjusted household income in each of the previous two years that is at or below the greater of the county median household income, as determined by the United States Department of Housing and Urban Development, or two times the national poverty level based on the federal poverty guidelines established by the United States Department of Health and Human Services and revised each April 1.
- 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."

AUTHORIZE THE USE OF AVAILABLE FUNDS FOR PURCHASE OF BERTIE COUNTY FORESTRY HEADQUARTERS BUILDING/CONSTRUCTION OF MCDOWELL COUNTY FORESTRY HEADQUARTERS BUILDING

SECTION 12.7.(a) The Division of Forest Resources of the Department of Environment and Natural Resources may use any funds available to the Department of Environment and Natural Resources for the 2004-2005 fiscal year to purchase an existing building to be used as the Bertie County Forestry Headquarters.

SECTION 12.7.(b) In the event that property located in McDowell County is donated to the State by transfer of title in fee simple and the Department of Environment and Natural Resources approves the land as a suitable location for a forestry headquarters building, the Division of Forest Resources of the Department of Environment and Natural Resources may use any funds available to the Department of Environment and Natural Resources for the 2004-2005 fiscal year to construct a building on that donated property to be used as the McDowell County Forestry Headquarters.

SECTION 12.7.(c) The Division of Forest Resources of the Department of Environment and Natural Resources shall conduct an evaluation of requirements for

real property and equipment under its charge and provide this information to the Senate and House Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division no later than January 15, 2005.

PARTNERSHIP FOR THE SOUNDS FUNDS

SECTION 12.7A. Of the funds previously appropriated to the Partnership for the Sounds for the Pamlico County education initiative, fifty percent (50%) of the funds remaining shall provide for a budget reduction to the Department of Environment and Natural Resources. The remainder shall be transferred as a State grant-in-aid to Pamlico County for education initiatives.

UNDER DOCK OYSTER CULTURE PROGRAM

SECTION 12.7B. Article 16 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-210. Under Dock Oyster Culture.

(a) Under Dock Oyster Culture Permit. – An Under Dock Oyster Culture Permit authorizes the holder of the permit to attach up to 90 square feet of oyster cultivation containers to a dock or pier owned by the permit holder.

(b) Application. – The owner of a dock or pier who wishes to obtain an Under Dock Oyster Culture Permit shall apply to the Director of the Division of Marine Fisheries.

(c) Issuance. – The Director of the Division of Marine Fisheries shall issue an Under Dock Oyster Culture Permit only if the Director determines all of the following:

- (1) That the dock or pier is not located in an area that the State Health Director has recommended be closed to shellfish harvest due to pollution or that has been closed to harvest by statute, rule, or proclamation due to suspected pollution.
- (2) That the owner of the dock or pier has satisfied the training requirements established by the Marine Fisheries Commission pursuant to subsection (j) of this section.
- (3) That the attachment of the oyster cultivation containers to the dock or pier will be compatible with all lawful uses by the public of other marine and estuarine resources. Other lawful public uses include, but are not limited to, navigation, fishing, and recreation.

(d) Duration. – An Under Dock Oyster Culture Permit is valid for a one-year period from the date of issuance.

(e) Renewal. – The Director of the Division of Marine Fisheries shall renew an Under Dock Oyster Culture Permit only if the Director determines the requirements of subsection (c) of this section continue to be satisfied and the holder of the permit is attempting to utilize the permit to cultivate oysters on a continuing basis.

(f) Reporting Requirements. – The holder of an Under Dock Oyster Culture Permit shall comply with the biological data sampling and survey programs of the Marine Fisheries Commission and the Division of Marine Fisheries.

(g) Posting of Signs. – The holder of an Under Dock Oyster Culture Permit shall post signs that indicate the presence of the oyster cultivation containers and that the oyster cultivation containers and their contents are private property.

(h) Sale of Oysters Prohibited. – It is unlawful for the holder of an Under Dock Oyster Culture Permit to sell oysters cultivated pursuant to the permit.

(i) Assignment and Transfer Prohibited. – An Under Dock Oyster Culture Permit is not assignable or transferable.

(j) Oyster Cultivation Training Requirements. – The Marine Fisheries Commission, in consultation with the Sea Grant College Program at The University of North Carolina, shall develop and adopt rules for the training of individuals who cultivate oysters pursuant to this section.

(k) Revocation of Permit. – If the Director of the Division of Marine Fisheries determines that the holder of an Under Dock Oyster Culture Permit has failed to comply with any provision of this section, the Director shall revoke the Permit. The owner of the dock or pier shall remove the oyster cultivation containers that were authorized by the revoked permit within 15 days of revocation."

REQUIREMENTS FOR ANIMAL WASTE MANAGEMENT SYSTEMS TECHNICAL SPECIALISTS

SECTION 12.7C. Before July 1, 2006, the requirements and qualifications for animal waste management systems technical specialists shall not be changed and the scope of the work that animal waste management systems technical specialists are authorized to perform shall not be decreased. As used in this section, "animal waste management system" has the same meaning as in G.S. 143-215.10B.

STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS AND FOR FEDERAL WATER QUALITY ACT FUNDS

SECTION 12.8.(a) Notwithstanding the provisions of Chapter 159G of the General Statutes, the Department of Environment and Natural Resources may transfer from the General Water Supply Revolving Loan Account up to six million nine hundred thousand dollars (\$6,900,000) to the Department of Environment and Natural Resources to be used to match the federal grant moneys authorized by section 1452 of the federal Safe Drinking Water Act amendments of 1996 for the 2004-2005 fiscal year and to match the federal grant moneys authorized by Title VI of the federal Water Quality Act of 1987 for the 2004-2005 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.

SECTION 12.8.(b) Notwithstanding the provisions of G.S. 143B-437.01, the Department of Commerce shall transfer from the Industrial Development Fund to the Department of Environment and Natural Resources the sum of seven hundred seventy-six thousand six hundred eighty dollars (\$776,680) to be used to match the federal grant moneys authorized by section 1452 of the federal Safe Drinking Water Act amendments of 1996 for the 2004-2005 fiscal year and to match the federal grant moneys authorized by Title VI of the federal Water Quality Act of 1987 for the 2004-2005 fiscal year. The Industrial Development Fund is established by G.S. 143B-437.01.

EXPAND EXPRESS REVIEW PILOT PROGRAM

SECTION 12.9.(a) The Department of Environment and Natural Resources shall continue the Express Review Pilot Program established by Section 11.4A of S.L. 2003-284 that was implemented in the Wilmington and Raleigh regional offices and shall expand the Express Review Pilot Program to two additional regional

offices within the Department, to be selected by the Department based on the Department's determination of where the Pilot Program is most needed.

SECTION 12.9.(b) The Department of Environment and Natural Resources shall continue and support the eight positions that were authorized under Section 11.4A of S.L. 2003-284 to administer the expanded Express Review Pilot Program under this section. This expanded Program and these positions and support shall be funded from the Express Review Fund, created by Section 11.4A of S.L. 2003-284.

SECTION 12.9.(c) The Department of Environment and Natural Resources may establish and support four additional positions to administer the expanded Express Review Pilot Program under this section. These positions and support may be funded for the 2004-2005 fiscal year from funds appropriated in this act to the Department of Environment and Natural Resources for this purpose. It is the intent of the General Assembly that these positions and support be funded in future fiscal years from the Express Review Fund.

SECTION 12.9.(d) The Department of Environment and Natural Resources may establish and support four additional positions to administer the expanded Express Review Pilot Program under this section. These positions and support shall be funded from the Express Review Fund, created by Section 11.4A of S.L. 2003-284.

SECTION 12.9.(e) No later than March 1, 2005, the Department of Environment and Natural Resources shall report to the Fiscal Research Division and the Environmental Review Commission its findings on the success of the continued Express Pilot Review Program and whether it recommends that the Program be continued or expanded and any other findings or recommendations, including any legislative proposals, that it deems pertinent.

SECTION 12.9.(f) Subsection (c) of this section becomes effective January 1, 2005. The remaining subsections of this section become effective July 1, 2004.

ONETIME GRANT TO SWAIN COUNTY

SECTION 12.11. The Wildlife Resources Commission shall provide a onetime grant of thirty-seven thousand five hundred dollars (\$37,500) for the 2004-2005 fiscal year from the Wildlife Resources Fund created under G.S. 143-250 to Swain County as compensation to the County for the loss of ad valorem taxes associated with the fee simple purchase by the Wildlife Resources Commission of the 3,431-acre Needmore game lands property located on the Little Tennessee River in Swain County, which grant shall be used to provide public services to the residents of Swain County.

EXPAND ONE-STOP PERMIT ASSISTANCE PROGRAM STATEWIDE

SECTION 12.12.(a) Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.12. One-stop permits for certain environmental permits.

(a) The Department of Environment and Natural Resources shall establish a one-stop environmental permit application assistance and tracking system program for all its regional offices. The Department shall provide to each person who submits an application for any environmental permit subject to this section to any regional office a time frame within which that applicant may expect a final decision regarding the issuance or denial of the permit. The Department shall identify the environmental

permits that are subject to this section. The procedure regulating the time frame estimates and sanction for failing to honor the time frame shall be as set out in subsections (b) and (c) of this section.

(b) Upon receipt of a complete application for an environmental permit, the Department of Environment and Natural Resources shall provide to the applicant a good faith estimate of the date by which the Department expects to make the final decision of whether to issue or deny the permit.

(c) Unless otherwise provided by law, when an applicant has provided to the Department of Environment and Natural Resources the information and documentation required and requested by the Department and the Department fails to issue or deny the permit within 60 days of the date projected by the Department for the final decision of whether to issue or deny the permit, the permit shall be automatically granted to the applicant. This subsection does not apply when an applicant submits a substantial amendment to its application after the Department has provided the applicant the projected time frame as required by this section. This subsection does not apply when an applicant agrees to receive a final decision from the Department more than 60 days from the date projected by the Department under subsection (b) of this section.

(d) The Department of Environment and Natural Resources shall track the time required to process each complete environmental permit application that is subject to this section. The Department shall compare the time in which the permit was issued or denied with the projected time frame provided to the applicant by the Department as required by this section. The Department shall identify each permit that was issued or denied more than 90 days after receipt of a complete application by the Department and shall document the reasons for the delayed action.

(e) No later than October 1, 2004, and annually thereafter, the Department of Environment and Natural Resources shall report to the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission the number of environmental permits subject to this section that took more than 90 days to issue or deny, the types of permits those were, the reasons for the extended processing time of those permits, and how the time within which the permit was actually issued or denied compared with the projected time frame provided to the applicant by the Department as required by this section. Based on the data gathered under this subsection, the Department shall include in its annual report recommendations regarding permit time frames for all major permits issued by the Department.

(f) The Department may adopt temporary rules to implement this section."

SECTION 12.12.(b) The Department of Environment and Natural Resources shall expand to a statewide program that operates in each regional office of the Department the one-stop environmental permit application assistance and tracking system pilot project established under Section 13.7 of S.L. 2000-67 for those environmental permits that were subject to this pilot program, and the provisions of G.S. 143B-12, as enacted by subsection (a) of this section, shall apply to this statewide program.

SECTION 12.12.(c) Any positions that were used by the Department of Environment and Natural Resources to staff the one-stop environmental permit application assistance and tracking system pilot project established under Section 13.7 of S.L. 2000-67 shall be used for the 2004-2005 fiscal year to staff the statewide one-stop environmental permit application assistance and tracking system program under G.S. 143B-279.12, as enacted in subsection (a) of this section. The Department of

Environment and Natural Resources shall use available funds for the 2004-2005 fiscal year to continue and support these positions, and the Department of Environment and Natural Resources shall use funds appropriated in this act to the Department only for the purposes of implementing the statewide one-stop environmental permit application assistance and tracking system and establishing and supporting four positions to staff this statewide program for the 2004-2005 fiscal year.

SECTION 12.12.(d) This section becomes effective January 1, 2005.

MONITORING AND EMERGENCY CLEANUP FUNDS FOR TEXFI SITE CONTAMINATION

SECTION 12.14. Of the funds appropriated to the Department of Environment and Natural Resources, Division of Waste Management, for the 2004-2005 fiscal year to cost share federal funds for the cleanup of Superfund sites, up to fifty thousand dollars (\$50,000) may be used by the Department of Environment and Natural Resources, Division of Waste Management, for the 2004-2005 fiscal year for monitoring the groundwater and other contamination located at the Texfi site in Fayetteville and for any emergency cleanup activities needed at this site.

TRANSFER SIX VACANT POSITIONS WITHIN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO MUSEUM OF NATURAL SCIENCES

SECTION 12.15. The Secretary of Environment and Natural Resources shall transfer six vacant positions within the Department of Environment and Natural Resources to the Museum of Natural Sciences.

MODIFY APPROPRIATION TO SALTWATER FISHING FUND

SECTION 12.16.(a) If House Bill 831, 2003 Regular Session, becomes law, then Section 13 of House Bill 831 is repealed.

SECTION 12.16.(b) If House Bill 831, 2003 Regular Session, becomes law, then of the funds appropriated to the Department of Environment and Natural Resources for the 2004-2005 fiscal year, the Division of Marine Fisheries may use up to four hundred fifty thousand dollars (\$450,000) to implement the provisions of House Bill 831, and notwithstanding the provisions of G.S. 113-175.3, as enacted by Section 1 of House Bill 831, the Board of Trustees of the North Carolina Saltwater Fishing Fund may use up to three hundred thousand dollars (\$300,000) to implement the provisions of House Bill 831. It is the intent of the General Assembly that all of the funds appropriated under this subsection are onetime funds. Notwithstanding G.S. 113-175.3, as enacted by Section 1 of House Bill 831, the Board of Trustees shall repay all of the funds appropriated pursuant to this subsection to the General Fund by 1 July 2008.

SECTION 12.16.(c) If House Bill 831, 2003 Regular Session, does not become law, then subsection (b) of this section shall not become effective.

MUSEUM OF NATURAL SCIENCES FUNDS

SECTION 12.17. If the Department of Environment and Natural Resources receives non-State matching funds on a dollar-for-dollar basis, the Department may use available funds up to five hundred thousand dollars (\$500,000) during the 2004-2005 fiscal year to conduct a feasibility study and to develop a schematic site plan for expansion of the Museum of Natural Sciences and for the expansion of office space.

PART XIII. DEPARTMENT OF COMMERCE**COUNCIL OF GOVERNMENT FUNDS**

SECTION 13.1. Section 12.2(c) of S.L. 2003-284 reads as rewritten:

"**SECTION 12.2.(c)** Funds appropriated by this section for the 2004-2005 fiscal year shall be paid by electronic transfer in two equal installments, the first no later than September 1, ~~2003, 2004~~, 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."

TOURISM PROMOTION FUNDS STUDY

SECTION 13.3. The Department of Commerce shall study alternative methods for ranking counties in an effort to direct tourism promotion funds to counties most in need. In conducting the study, the Department shall consider the number and quality of tourism attractions in the county and the county's financial ability to promote tourism, including sales and property tax revenue. The Department of Commerce shall report its findings and recommendations to the Chairs of the Appropriations Subcommittees on Natural and Economic Resources of the Senate and the House of Representatives by January 16, 2005.

INDUSTRIAL DEVELOPMENT FUND

SECTION 13.5. Section 12.5 of S.L. 2003-284 reads as rewritten:

"**SECTION 12.5.(a)** The Department of Commerce shall reduce the cash balance of the Industrial Development Fund by ~~one hundred eighty two thousand one hundred fifty four dollars (\$182,154)~~ two million two hundred eleven thousand six hundred sixty-seven dollars (\$2,211,667).

"**SECTION 12.5.(b)** This section becomes effective ~~June 30, 2003~~ June 30, 2004."

WANCHESE SEAFOOD INDUSTRIAL PARK

SECTION 13.5A.(a) Funds appropriated to the Department of Commerce for the 2003-2004 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2004, shall not revert to the General Fund on June 30, 2004, but shall remain available to the Department to be expended by the NC Seafood Industrial Park Authority for operations, maintenance, expansion, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to any other funds that are available to the Authority for the purposes stated in this section. This subsection becomes effective June 30, 2004.

SECTION 13.5A.(b) Funds appropriated to the Department of Commerce prior to the 2003-2004 fiscal year for the Oregon Inlet Project that did not revert to the General Fund but remained available to the Department for legal costs associated with the Project shall be available to the NC Seafood Industrial Park Authority for securing adequate channel maintenance of Oregon Inlet and for general operations, maintenance, expansion, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to any other funds available to the Authority for the purposes stated in this section. This subsection becomes effective June 30, 2004.

SECTION 13.5A.(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the Office of State Budget and Management shall reduce the carry forward for Wanchese Seafood Industrial Park authorized in this section by the sum of three hundred thousand dollars (\$300,000).

REGIONAL PARTNERSHIPS VISION PLANS

SECTION 13.6.(a) There is appropriated from the General Fund to the North Carolina Partnership for Economic Development, Inc., the sum of one million seven hundred fifty thousand dollars (\$1,750,000) for the 2004-2005 fiscal year. From these funds, the Partnership shall allocate two hundred fifty thousand dollars (\$250,000) to each of the seven regional economic development partnerships. These funds shall be used by each partnership to develop and implement a strategic economic development plan in accordance with this section.

SECTION 13.6.(b) In developing and implementing a strategic economic development plan, each of the regional partnerships shall do the following:

- (1) Perform a comprehensive study of the region's resources and existing businesses located in the region to determine what business clusters exist and the boundaries of those clusters, to develop ways to strengthen those clusters, and to determine in what areas the region has a competitive advantage that could lead to the development of future clusters.
- (2) Ensure that the benefits of the economic development plan are widely dispersed and that the plan provides real opportunities in rural areas as well as in urban and suburban areas.
- (3) Develop focused and targeted economic development initiatives related to the recruitment and development of new businesses and the retention of existing businesses.
- (4) Provide a mechanism for continuous monitoring of the regional economy and competitiveness indicators and for updating the strategic economic development plan to take account of changing economic conditions.
- (5) Recommend infrastructure investments to meet the region's current and anticipated future needs.
- (6) Integrate the North Carolina Community College System and The University of North Carolina into economic development efforts and planning.
- (7) Create leadership networks that span the public and private sectors and that facilitate communication within clusters, between members of complementary clusters, and between members of the public and private sectors.

SECTION 13.6.(c) Section 8.3 of S.L. 2002-126 is repealed.

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 13.7. Section 12.7(b) of S.L. 2003-284 reads as rewritten:

"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, the 2003-2004 fiscal year~~ and the sum of one hundred twenty-five thousand six hundred eighty-one dollars (\$125,681) in the 2004-2005 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 in the 2003-2004 fiscal year~~ and the sum of one hundred twenty-five thousand six hundred eighty-one dollars (\$125,681) in the 2004-2005 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."

TRADE JOBS FOR SUCCESS

SECTION 13.7A.(a) The Employment Security Commission shall take all actions practicable to obtain from the U.S. Department of Labor as quickly as possible a waiver under the Trade Adjustment Act to allow the Trade Jobs for Success initiative to (i) serve persons regardless of their age, (ii) use unemployment funds to provide direct monetary incentives to participating employers and direct income to eligible workers in the retraining program, and (iii) use funds for in-State relocation assistance. Waivers shall be sought for other program components, as appropriate.

SECTION 13.7A.(b) The Department of Commerce, in cooperation with the Employment Security Commission and the North Carolina Community College System shall begin implementation of the Trade Jobs for Success initiative in the counties hardest hit by trade impacted job losses and the resulting decline of traditional North Carolina industries including the textile, clothing, and furniture industries and other manufacturing operations. Counties having an unemployment rate of eight percent (8%) or more shall receive priority consideration.

SECTION 13.7A.(c) The Department of Commerce shall seek, and may receive, private grants and federal funds for the Trade Jobs for Success initiative.

SECTION 13.7A.(d) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 3C. Trade Jobs for Success.

"§ 143B-438.15. Legislative findings and purpose.

(a) The General Assembly finds that State, national, and global economic conditions and the passage of international trade agreements have impacted the State workforce adversely and resulted in significant losses in the availability of jobs in manufacturing and the State's other traditional industries. Further, the General Assembly finds that business and plant closings, the weakened State economy, and lengthening periods of unemployment have taken a toll on communities across the State. It is prudent to address the loss of jobs by establishing a statewide initiative to create more jobs for our citizens.

(b) It is the policy of this State to stimulate job growth and hiring by investing in the effective retraining of trade-affected displaced workers while partnering with private business to help those citizens learn new skills for new jobs through on-the-job training and educational assistance.

(c) The purpose of this Part is to establish the Trade Jobs for Success initiative to stimulate job growth and hiring in the State and to assist displaced workers affected by trade-impact business closings. The aim of the Trade Jobs for Success initiative shall be to partner with private business to move displaced workers into new jobs while allowing for a dignified transition from unemployment back to employment.

"§ 143B-438.16. Trade Jobs for Success initiative established; funds; program components and guidelines.

(a) There is established within the Department of Commerce the Trade Jobs for Success (TJS) initiative. The Department of Commerce shall lead the TJS initiative in cooperation with the Employment Security Commission and the Community Colleges System Office.

(b) There is created in the Department of Commerce a special, nonreverting fund called the Trade Jobs for Success Fund (Fund). The Fund shall be used to implement the TJS initiative. The Department of Commerce shall develop guidelines for administration of the TJS initiative and the Fund. An advisory council shall assist the Secretary of Commerce in the administration of the Fund. The members of the advisory council shall include:

- (1) The Chairman of the Employment Security Commission or that officer's designee.
- (2) The President of the Community Colleges System or that officer's designee.
- (3) The State Auditor or that officer's designee.
- (4) A representative of a statewide association to further the interests of business and industry in North Carolina designated by the Secretary of Commerce.

(c) At a minimum, the Trade Jobs for Success initiative shall include the following programmatic components:

- (1) Displaced workers participating in the TJS initiative shall receive (i) on-the-job training to learn new job skills and (ii) educational assistance or remedial education specifically designed to help displaced workers qualify for new jobs.
- (2) Displaced workers participating in the TJS initiative shall not lose their eligibility for unemployment insurance benefits while they are in the program and may receive wage supplements, as appropriate.
- (3) In-State relocation assistance, in appropriate instances, where participating individuals must relocate to work for participating employers.

- (4) Mentoring, both on and off the job, shall be provided to participants in a dignified manner through telephone assistance and other appropriate means.
- (5) Financial assistance and other incentives may be provided to participating employers who provide jobs to participating displaced workers to help defray the costs of providing the on-the-job training opportunities.
- (6) Work provided by participating employers as part of the TJS initiative must be full-time employment. Wages paid shall not be less than the hourly entry-level wage normally paid by the employer.
- (7) Staff of the Employment Security Commission, in conjunction with staff of the Department of Commerce, shall match participating displaced workers to the most suitable employer.
- (8) Local Employment Security Commission offices and community colleges shall enter into partnership agreements with local chambers of commerce, and other appropriate organizations, that would encourage employer participation in the TJS initiative.
- (9) Tracking of participating individuals and businesses by the Department of Commerce and the Employment Security Commission to assure program integrity and effectiveness and the compilation of data to generate the reports necessary to evaluate the success of the TJS initiative.
- (10) Coordination and integration of existing programs in the Department of Commerce, the Employment Security Commission, and the North Carolina Community College System in a manner that maximizes the flexibility of these agencies to effectively assist participating individuals and businesses.

"§ 143B-438.17. Reporting.

The Department of Commerce, in conjunction with the Employment Security Commission and the Community Colleges System Office, shall publish a quarterly report on the Trade Jobs for Success initiative. The report shall provide information on the commitment, disbursement, and use of funds and the status of any grant proposals or waivers requested on behalf of the Trade Jobs for Success initiative. The report shall also include legislative proposals and recommendations regarding statutory changes needed to maximize the effectiveness and flexibility of the TJS initiative. Copies of the report shall be provided to the Joint Legislative Commission on Governmental Operations, to the chairs of the Senate and House of Representatives Appropriations Committees, and to the Fiscal Research Division of the General Assembly."

OMNIBUS CHANGES TO EMPLOYMENT SECURITY LAWS/FUNDS TO SUPPORT LOCAL ESC OFFICES

SECTION 13.7B.(a) G.S. 96-9(d)(2)d. reads as rewritten:

"d. As of July 31 of each year, and prior to January 1 of the succeeding year, the Commission shall determine the balance of each such employer's account and shall furnish him with a statement of all charges and credits thereto.

As of the second computation date (August 1) following the effective date of liability and as of each computation date thereafter, any credit balance remaining in the employer's

account (after all applicable postings) in excess of whichever is the greater (a) benefits charged to such account during the 12 months ending on such computation date, or (b) one percent (1%) of taxable wages for the 12 months ending on June 30 preceding such computation date shall be refunded. Any such refund shall be made prior to February 1 following such computation date.

Should the balance in such account not equal that requiring a refund, the employer shall upon notice and demand for payment mailed to his last known address pay into his account an amount that will bring such balance to the minimum required for a refund. Such amount shall become due on or before the tenth day following the mailing of such notice and demand for payment. Any such amount unpaid on the due date shall be collected in the same manner, including interest, as prescribed in G.S. 96-10.

Upon a change in election as to the method of payment from reimbursement to contributions, or upon termination of coverage and after all applicable benefits paid based on wages paid prior to such change in election or termination of coverage have been charged, any credit balance in such account shall be refunded to the employer.

Should there be a debit balance in such account, the employer shall, upon notice and demand for payment, mailed to his last-known address, pay into his account an amount equal to such debit balance. Such amount shall become due on or before the tenth day following the mailing of such notice and demand for payment.

Any such amount unpaid on the date due shall be collected in the same manner, including interest, as prescribed in G.S. 96-10.

Beginning January 1, 1978, each employer paying by reimbursement shall have his account computed on computation date (August 1) and if there is a deficit shall be billed for an amount necessary to bring his account to one percent (1%) of his taxable payroll. Any amount of his account in excess of that required to equal one percent (1%) of his payroll shall be refunded. Amounts due from any employer to bring his account to a one percent (1%) balance shall be billed as soon as practical and payment will be due within 25 days from the date of mailing of the statement of amount due. Amounts due from any nonprofit organization to bring its account to a one percent (1%) balance shall be billed as soon as practical, and payment will be due within 60 days from the date of mailing of the statement of the amount due."

SECTION 13.7B.(b) G.S. 96-5(c1) is repealed.

SECTION 13.7B.(c) G.S. 96-15(c) reads as rewritten:

"(c) Appeals. – Unless an appeal from the adjudicator is withdrawn, an appeals referee shall set a hearing in which the parties are given reasonable opportunity to be

heard. The conduct of hearings shall be governed by suitable regulations established by the Commission. Such regulations need not conform to common law or statutory rules of evidence or technical or formal rules of procedure but shall provide for the conduct of hearings in such manner as to ascertain the substantial rights of the parties. The hearings may be conducted by conference telephone call or other similar means provided that if any party files with the Commission prior written objection to the telephone procedure, that party will be afforded an opportunity for an in-person hearing at such place in the State as the Commission by regulation shall provide. The appeals referee may affirm or modify the conclusion of the adjudicator or issue a new decision in which findings of fact and conclusions of law will be set out or dismiss an appeal when the appellant fails to appear at the appeals hearing to prosecute the appeal after having been duly notified of the appeals hearing. The evidence taken at the hearings before the appeals referee shall be recorded and the decision of the appeals referee shall be deemed to be the final decision of the Commission unless within 10 days after the date of notification or mailing of the decision, whichever is earlier a written appeal is filed pursuant to such regulations as the Commission may adopt. No person may be appointed as an appeals referee unless he or she possesses the minimum qualifications necessary to be a staff attorney eligible for designation by the Commission as a hearing officer under G.S. 96-4(m). No appeals referee in full-time permanent status may engage in the private practice of law as defined in G.S. 84-2.1 while serving in office as appeals referee; violation of this prohibition shall be grounds for removal. Whenever an appeal is taken from a decision of the appeals referee, the appealing party shall submit a clear written statement containing the grounds for the appeal within the time allowed by law for taking the appeal, and if such timely statement is not submitted, ~~an appeals referee~~ the Commission may dismiss the appeal."

SECTION 13.7B.(d) G.S. 96-8(6)k. is amended by adding a new sub-subdivision to read:

"k. The term "employment" does not include:

...

20. Services performed by an individual who is an alien having residence in a foreign country which the individual has no intention of abandoning who possesses a valid J-1 Visa and is present in the State for a period of six months or less pursuant to the provisions of 8 U.S.C. § 1101(a)(15)(F)(J)(M)(Q)."

SECTION 13.7B.(e) There is appropriated from the Special Employment Security Administration Fund to the Employment Security Commission of North Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the 2004-2005 fiscal year to be used for the following purposes:

- (1) Six million dollars (\$6,000,000) for the operation and support of local offices.
- (2) Two hundred thousand dollars (\$200,000) for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs.
- (3) One hundred thousand dollars (\$100,000) 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.

SECTION 13.7B.(f) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the Community College System Office the sum of one hundred fifty thousand dollars (\$150,000) for the 2004-2005 fiscal year to be used for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises and the sum of two hundred fifty thousand dollars (\$250,000) for the 2004-2005 fiscal year to be used for the operation of the Hosiery Technology Center.

SECTION 13.7B.(g) Subsection (a) of this section becomes effective August 1, 2004, and applies to amounts due on or after that date. Subsections (e) and (f) of this section become effective July 1, 2004. The remainder of this section is effective when it becomes law.

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.8. Section 12.11 of S.L. 2003-284 reads as rewritten:

"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)~~ three million twenty-five thousand six hundred ninety-seven dollars (\$3,025,697) 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 <u>\$1,370,000</u>
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 <u>125,000</u>
<u>Institute for Rural Entrepreneurship</u>		<u>144,000</u>

"SECTION 12.11.(a1) Of the funds allocated to Research and Demonstration Grants for fiscal year 2004-2005 in subsection (a) of this section, the sum of one million dollars (\$1,000,000) may be allocated to the e-NC Authority to establish up to four Business and Technology Telecenters.

The e-NC Authority may:

- (1) Contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities.
- (2) Use up to five percent (5%) of the funds allocated in this section to cover its expenses in program development and implementation of activity areas.

The e-NC Authority shall report to the 2005 General Assembly on the following:

- (1) The activities necessary to be undertaken in distressed urban areas of the State to enhance the capability of citizens and businesses residing in these areas to access the high-speed Internet.
- (2) An implementation plan for the training of citizens and businesses in distressed urban areas.
- (3) The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in these communities and to use the Internet to enhance the productivity of their businesses.

The e-NC Authority shall, by January 31, 2005, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities.

....

"**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 new or previously funded 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 for the 2004-2005 fiscal year 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~~
 - a. \$997,410 for direct grants to local community development corporations to support operations and project activities.
 - e.b. \$50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section."

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 13.9. Section 12.12(a) of S.L. 2003-284 reads as rewritten:

"**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 equally distributed among the certified Opportunities Industrialization Centers for ongoing job training programs. ~~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."~~

TRANSFER BUSINESS LICENSE INFORMATION OFFICE FUNCTIONS AND DUTIES TO THE DEPARTMENT OF COMMERCE

SECTION 13.9A.(a) Article 4B of Chapter 147 of the General Statutes is repealed, and the Business License Information Office of the Department of the Secretary of State is abolished.

SECTION 13.9A.(b) Section 24.1 of S.L. 2003-284 is repealed.

SECTION 13.9A.(c) G.S. 143B-431 is amended by adding the following new subsection to read:

"(e) The Department of Commerce may establish a clearinghouse for State business license information and shall perform the following duties:

- (1) Establish a license information service detailing requirements for establishing and engaging in business in the State.
- (2) Provide the most recent forms and information sheets for all State business licenses.
- (3) Prepare, publish, and distribute a complete directory of all State licenses required to do business in North Carolina.
- (4) Upon request, the Department shall assist a person as provided below:
 - a. Identify the type and source of licenses that may be required and the potential difficulties in obtaining the licenses based on an informal review of a potential applicant's business at an early stage in its planning. Information provided by the Department is for guidance purposes only and may not be asserted by an applicant as a waiver or release from any license requirement. However, an applicant who uses the services of the Department as provided in this subdivision, and who receives a written statement identifying required State business licenses relating to a specific business activity, shall not be assessed a penalty for failure to obtain any State business license which was not identified, provided that the applicant submits an application for each such license within 60 days after written notification by the Department or the agency responsible for issuing the license.
 - b. Arrange an informal conference between the person and the appropriate agency to clarify licensing requirements or standards, if necessary.
 - c. Assist in preparing the appropriate application and supplemental forms.
 - d. Monitor the license review process to determine the status of a particular license. If there is a delay in the review process, the Department may demand to know the reasons for the delay, the

action required to end the delay, and shall provide this information to the applicant. The Department may assist the applicant in resolving a dispute with an agency during the application process. If a request for a license is refused, the Department may explain the recourse available to the person under the Administrative Procedure Act.

- (5) Collaborate with the business license coordinator designated in State agencies in providing information on the licenses and regulatory requirements of the agency, and in coordinating conferences with applicants to clarify license and regulatory requirements.

Each agency shall designate a business license coordinator. The coordinator shall have the following responsibilities:

- a. Provide to the Department the most recent application and supplemental forms required for each license issued by the agency, the most recent information available on existing and proposed agency rules, the most recent information on changes or proposed changes in license requirements or agency rules and how those changes will affect the business community, and agency publications that would be of aid or interest to the business community.
- b. Work with the Department in scheduling conferences for applicants as provided under this subsection.
- c. Determine, upon request of an applicant or the Department, the status of a license application or renewal, the reason for any delay in the license review process, and the action needed to end the delay; and to notify the applicant or Department, as appropriate, of those findings.
- d. Work with the Department or applicant, upon request, to resolve any dispute that may arise between the agency and the applicant during the review process.
- e. Review agency regulatory and license requirements and to provide a written report to the Department that identifies the regulatory and licensing requirements that affect the business community; indicates which, if any, requirements should be eliminated, modified, or consolidated with other requirements; and explains the need for continuing those requirements not recommended for elimination.
- f. Report, on a quarterly basis, to the Department on the number of licenses issued during the previous quarter on a form prescribed by the Department."

SECTION 13.9A.(d) The Department of Commerce shall consider hiring the personnel in the Business License Information Office of the Department of the Secretary of State to conduct the business license information functions in the Department of Commerce.

SECTION 13.9A.(e) Part 1 of Article 10 of the General Statutes is amended by adding the following new section:

"§ 143B-432.1. Department of Commerce – Small Business Ombudsman.

A Small Business Ombudsman is created in the Department of Commerce to work with small businesses to ensure they receive timely answers to questions and timely

resolution of issues involving State government. The Small Business Ombudsman shall have the authority to make inquiry of State agencies on behalf of a business, to receive information concerning the status of a business's inquiry, and to convene representatives of various State agencies to discuss and resolve specific issues raised by a business. The Small Business Ombudsman shall also work with the small business community to identify problems in State government related to unnecessary delays, inconsistencies between regulatory agencies, and inefficient uses of State resources."

PART XIV. JUDICIAL DEPARTMENT

**INCREASE MAXIMUM MAGISTRATE AUTHORIZATIONS/STUDY
MAGISTRATE FUNDING**

SECTION 14.1.(a) 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	4	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	8	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	<u>3</u> 4	
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	<u>4</u> 5	
Swain	2	4"	

SECTION 14.1.(b) The Administrative Office of the Courts shall evaluate the need for magistrates across the State and shall reexamine the caseload formula it uses to assign priority to that need, considering county population, warrant workload, and automation levels. The Administrative Office of the Courts shall report its findings to the General Assembly by March 15, 2005.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 14.2. Section 13.2 of S.L. 2003-284 reads as rewritten:

"**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~~, 2004, for the purchase or repair of office or information technology

equipment during the ~~2003-2004 fiscal year~~ 2003-2005 biennium. 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.

The Judicial Department may use up to the sum of five hundred thousand dollars (\$500,000) in receipts collected from the Worthless Check Program during the 2004-2005 fiscal year to create up to 10 positions in, and to provide equipment for, district attorney's offices that are establishing or expanding programs for the collection of worthless checks. The Judicial Department shall report by March 1, 2005, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the prosecutorial districts in which expansion has been implemented."

MEDIATION FUNDING STUDY

SECTION 14.2A. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall study the funding formula used for the provision of State funding to community mediation centers. The Committee shall report its findings and any recommendations to the 2005 General Assembly.

PLAN TO CONTINUE DRUG COURT SERVICES

SECTION 14.2B. The Administrative Office of the Courts shall develop a plan to continue providing drug treatment court services in districts currently offering those services through time-limited non-State funding. This plan shall include a long-range plan for provision of drug treatment court services in any district where feasible and needed. The Administrative Office of the Courts shall report on this plan to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2005.

OFFICE OF INDIGENT DEFENSE SERVICES/EXPANSION FUNDS/JUVENILE DEFENDER

SECTION 14.3.(a) The Office of Indigent Defense Services may use up to the sum of one million two hundred fifty thousand six hundred thirty-seven dollars (\$1,250,637) in appropriated funds for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services by creating up to 12 new attorney positions and six new support staff positions. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

SECTION 14.3.(b) The Office of Indigent Defense Services may use up to the sum of one hundred seventy-seven thousand five hundred dollars (\$177,500) in appropriated funds for the creation of an Office of the Juvenile Defender to be comprised of one attorney position and one support staff position. These funds may be used for salaries, benefits, equipment, and related expenses.

ESTABLISH PUBLIC DEFENDER'S OFFICES IN THE FIRST AND TENTH DEFENDER DISTRICTS

SECTION 14.4.(a) G.S.7A-498.7(a) reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

<u>Defender District</u>	<u>Counties</u>
<u>1</u>	<u>Camden, Chowan,</u> <u>Currituck, Dare, Gates,</u> <u>Pasquotank, Perquimans</u>
3A	Pitt
3B	Carteret
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

SECTION 14.4.(b) Effective July 1, 2005, G.S.7A-498.7(a), as rewritten by subsection (a) of this section, reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

<u>Defender District</u>	<u>Counties</u>
1	Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
<u>10</u>	<u>Wake</u>
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg

27A

Gaston

28

Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

SECTION 14.4.(c) Of the funds appropriated to the Judicial Department, Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services shall use up to the sum of six hundred thousand dollars (\$600,000) for the 2004-2005 fiscal year to establish a public defender's office in the First Defender District, as established in this section. The funds shall be used to establish the public defender, six assistant public defenders, one investigator, and two support positions.

SECTION 14.4.(d) Subsection (b) of this section becomes effective July 1, 2005. The remainder of this section becomes effective July 1, 2004.

**PILOT PROGRAM FOR PROVISION OF COURTROOM TESTIMONY OF
LAB ANALYSTS BY VIDEOCONFERENCE/DIRECT JUDICIAL
DEPARTMENT TO STUDY FEASIBILITY OF A STATEWIDE PROGRAM
FOR PROVIDING TESTIMONY IN THAT MANNER**

SECTION 14.5.(a) The Administrative Office of the Courts shall conduct a pilot program in Superior Court District 27B for the provision of State Bureau of Investigation lab analyst testimony by videoconference. Notwithstanding any provision of law to the contrary, lab analysts with the State Bureau of Investigation may provide courtroom testimony by means of videoconferencing to courtrooms in Superior Court District 27B for purposes of participating in this pilot project.

SECTION 14.5.(b) Of the funds appropriated to the Judicial Department in this act, the Department shall use up to the sum of ninety-three thousand two hundred twenty-nine dollars (\$93,229) for the 2004-2005 fiscal year for equipment and other expenses to conduct a pilot program in Superior Court District 27B for the provision of SBI lab analyst testimony by videoconference to courtrooms in District 27B.

SECTION 14.5.(c) Of the funds appropriated to the Department of Justice in this act, the Department shall use up to the sum of forty-eight thousand four hundred fifty dollars (\$48,450) for equipment, set-up charges, telecommunication charges, and other expenses associated with providing lab analyst testimony by videoconference from the SBI laboratory.

SECTION 14.5.(d) The Judicial Department, in consultation and cooperation with the Department of Justice, shall study the feasibility of statewide implementation of a program to allow lab analysts with the State Bureau of Investigation to provide their testimony establishing chain-of-custody and any other necessary courtroom testimony by means of videoconferencing or other remote means. In conducting this study, the departments shall determine the most efficient and cost-effective means of providing such testimony and agree upon the appropriate equipment needed for the provision of testimony in that manner. The departments shall report their findings and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and the Chairs of the House and Senate Appropriations Committees by January 1, 2005.

**ADDITIONAL SUPERIOR COURT JUDGES, DISTRICT COURT JUDGES,
AND ASSISTANT DISTRICT ATTORNEYS TO ENHANCE
ENFORCEMENT OF DOMESTIC VIOLENCE LAWS, PROSECUTION OF
METHAMPHETAMINE CASES, AND ENFORCEMENT OF OTHER
RECENT CHANGES IN CRIMINAL PENALTIES**

SECTION 14.6.(a) G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a6) Effective December 1, 2004, the Governor may appoint a special superior court judge to serve a term expiring five years from the date that each judge takes office. Successors to the special superior court judge appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

SECTION 14.6.(b) 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	<u>23</u>
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	<u>4</u>
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	19B	Montgomery, Randolph	1
Sixth	19C	Rowan	1
Fifth	19D	Moore	1
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."

SECTION 14.6.(c) The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 3B as authorized by subsection (b) of this section to serve until December 31, 2006. The successor to that judge shall be elected in the 2006 election to serve the remainder of the unexpired term expiring December 31, 2010.

The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 15B as authorized by subsection (b) of this section to serve until December 31, 2006. The successor to that judge shall be elected in the 2006 election to serve an eight-year term.

SECTION 14.6.(d) As to District 15B, subsection (b) of this section becomes effective December 1, 2004. As to District 3B, subsection (b) of this section becomes effective December 1, 2004, or 15 days after the date upon which that subsection is approved under section 5 of the Voting Rights Act of 1965, whichever is later.

SECTION 14.6.(e) G.S. 7A-133 reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell Hyde Washington
3A	5	Pitt
3B	5	Craven Pamlico Carteret
4	8	Sampson Duplin Jones Onslow
5	7 <u>8</u>	New Hanover Pender
6A	2	Halifax
6B	3	Northampton Bertie Hertford
7	7	Nash Edgecombe Wilson
8	6	Wayne Greene

9	4	Lenoir Granville (part of Vance see subsection (b))
9A	2	Franklin Person Caswell
9B	2	Warren (part of Vance see subsection (b))
10	15	Wake
11	8	Harnett Johnston Lee
12	9	Cumberland
13	6	Bladen Brunswick Columbus
14	6	Durham
15A	4	Alamance
15B	4	Orange Chatham
16A	3	Scotland Hoke
16B	5	Robeson
17A	2	Rockingham
17B	3 4	Stokes Surry
18	12	Guilford
19A	4	Cabarrus
19B	6	Montgomery Moore Randolph
19C	4	Rowan
20	7	Stanly Union Anson Richmond
21	8 9	Forsyth
22	9	Alexander Davidson Davie Iredell
23	4	Alleghany Ashe Wilkes Yadkin
24	4	Avery Madison

		Mitchell
		Watauga
		Yancey
25	8	Burke
		Caldwell
		Catawba
26	17	Mecklenburg
27A	6	Gaston
27B	4	Cleveland
		Lincoln
28	6	Buncombe
29	6 <u>7</u>	Henderson
		McDowell
		Polk
		Rutherford
		Transylvania
30	5	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

SECTION 14.6.(f) The Governor shall appoint the additional district court judges for Districts 5, 21, and 29 authorized by subsection (e) of this section, and those judges' successors shall be elected in the 2006 general election for four-year terms commencing on the first Monday in December 2006.

The district court judge for the additional judgeship in District 17B, as authorized by subsection (e) of this section, shall be elected in the 2004 general election in the same manner as provided for in G.S. 163-329 to serve a four-year term beginning the first Monday in December 2004, and no vacancy exists before that date.

SECTION 14.6.(g) Subsection (e) of this section is effective when it becomes law, except that the terms of the judges appointed by the Governor pursuant to subsection (f) of this section begin on December 15, 2004.

SECTION 14.6.(h) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	9 <u>10</u>
2	Beaufort, Hyde, Martin, Tyrrell, Washington	5 <u>6</u>
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10

4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	14
6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	15 <u>16</u>
8	Greene, Lenoir, Wayne	11
9	Franklin, Granville, Vance, Warren	10 <u>11</u>
9A	Person, Caswell	4
10	Wake	30 <u>31</u>
11	Harnett, Johnston, Lee	14
12	Cumberland	18
13	Bladen, Brunswick, Columbus	10 <u>11</u>
14	Durham	13
15A	Alamance	8
15B	Orange, Chatham	7
16A	Scotland, Hoke	5
16B	Robeson	9 <u>10</u>
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	26 <u>27</u>
19A	Cabarrus	6
19B	Montgomery, Moore, Randolph	11
19C	Rowan	5
20	Anson, Richmond, Stanly, Union	15
21	Forsyth	17
22	Alexander, Davidson, Davie, Iredell	16
23	Alleghany, Ashe, Wilkes, Yadkin	5
24	Avery, Madison, Mitchell, Watauga, Yancey	4
25	Burke, Caldwell, Catawba	14 <u>15</u>
26	Mecklenburg	33 <u>36</u>
27A	Gaston	12
27B	Cleveland, Lincoln	8 <u>9</u>
28	Buncombe	10 <u>11</u>
29	Henderson, McDowell, Polk, Rutherford, Transylvania	11
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	8 <u>9</u>

SECTION 14.6.(i) Subsections (a) and (h) of this section become effective December 1, 2004.

ADDITIONAL INVESTIGATIVE ASSISTANT**SECTION 14.7.(a)** G.S. 7A-69 reads as rewritten:**"§ 7A-69. Investigatorial assistants.**

The district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B, 16A, 18, 19B, 20, 21, 22, 24, 25, 26, 27A, 27B, 28, 29, and 30 is entitled to one investigatorial assistant, and the district attorney in prosecutorial district 10 is entitled to two investigatorial assistants, to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other Duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

SECTION 14.7.(b) This section becomes effective January 1, 2005.**PART XV. DEPARTMENT OF JUSTICE****STUDY COST OF THE DCI-PIN SYSTEM**

SECTION 15.1. The Office of State Budget and Management, in consultation with the Department of Justice, shall study the cost of the DCI-PIN system, which allows State and local law enforcement agencies to access criminal information from desktop terminals and mobile data laptops installed in vehicles. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to the DCI-PIN system on a per-unit cost basis. The study shall also include a survey of the funding sources used by other states for their DCI-PIN systems. 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, 2005.

REDUCE BACKLOG OF RAPE KITS/ADMISSIBILITY OF FORENSIC EVIDENCE

SECTION 15.2.(a) Of the funds appropriated to the Department of Justice in this act, the sum of two hundred fifty thousand dollars (\$250,000) shall be used to contract with private entities to reduce the backlog of rape kits in storage in local law enforcement agencies as of July 1, 2004. The Department shall contract with private entities to analyze bodily fluids, DNA evidence, as "DNA" is defined in G.S. 15A-266.2, or both, from rape kits that are evidence in cases in which a suspect has not been identified. In addition to the funds appropriated, the Department shall maximize the use of federal grant funds to expedite the elimination of the backlog.

SECTION 15.2.(b) The Department of Justice shall report, on or before May 1, 2005, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the number of rape kits analyzed by private entities and how many of those analyses resulted in arrests or convictions.

SECTION 15.2.(c) Chapter 8 of the General Statutes is amended by adding a new Article to read:

"Article 7C.

"Admissibility of Forensic Evidence.

"§ 8-58.20. Forensic analysis admissible as evidence.

(a) In any criminal prosecution, a laboratory report of a written forensic analysis, including an analysis of the defendant's DNA, or a forensic sample alleged to be the defendant's DNA, as that term is defined in G.S. 15A-266.2(2), that states the results of the analysis and that is signed and sworn to by the person performing the analysis may be admissible in evidence without the testimony of the analyst who prepared the report in accordance with the requirements of this section.

(b) A forensic analysis, to be admissible under this section, shall be performed in accordance with rules or procedures adopted by the State Bureau of Investigation, or by another laboratory certified by the American Society of Crime Laboratory Directors (ASCLD), for the submission, identification, analysis, and storage of forensic analyses. The analyses of DNA samples and typing results of DNA samples shall be performed in accordance with the rules or procedures of the State Bureau of Investigation or other ASCLD-certified laboratory.

(c) The analyst who analyzes the forensic sample and signs the report shall complete an affidavit on a form developed by the State Bureau of Investigation. In the affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience to perform the analysis, (ii) the name and location of the laboratory where the analysis was performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst shall also aver in the affidavit that the tests were performed pursuant to the ASCLD standards for that discipline and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit by a forensic analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any criminal proceeding with respect to the forensic analysis administered and the procedures followed.

(d) The district attorney shall serve a copy of the laboratory report and affidavit on the attorney of record for the defendant, or on the defendant if that person has no attorney, no later than five business days after receiving the report and affidavit, or 30 business days before any proceeding in which the report may be used against the defendant, whichever occurs first.

(e) Upon receipt of a copy of the laboratory report and affidavit, the attorney of record for the defendant or the defendant if that person has no attorney, shall have 15 business days to file a written objection to the use of the laboratory report and affidavit at any proceeding against the defendant. The written objection shall be filed with the court in which the matter is pending with a copy provided to the district attorney.

(f) If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court to the use of the laboratory report and affidavit within the time allowed by this section, then the laboratory report and affidavit may be admitted in evidence in any proceeding without the testimony of the analyst subject to the presiding judge ruling otherwise at the proceeding when offered. If, however, a written objection is filed, this section does not apply and the admissibility of the evidence shall be determined and governed by the appropriate rules of evidence."

SECTION 15.2.(d) It is the intent of the General Assembly that the Department of Justice hire only non-sworn personnel to fill vacant positions in the State Bureau of Investigation laboratory for which the regular duties do not include serving

warrants, responding to crimes prior to the crime scene being secured by other law enforcement officers, or entering hazardous situations that may require the use of force, unless there is a compelling reason to employ sworn agents in these positions. No less than 30 days prior to filling those positions with sworn agents, the Department shall consult with the Joint Legislative Commission on Governmental Operations and report to the Chairs of the Senate and House of Representatives Appropriations Committees and Appropriations Subcommittees on Justice and Public Safety. Nothing in this subsection shall prevent the Department from promoting sworn personnel who were hired prior to July 1, 2004, into such positions.

SECTION 15.2.(e) Subsection (c) of this section becomes effective December 1, 2004, and applies to offenses committed on or after that date. The remainder of this section becomes effective July 1, 2004.

PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

STATE FUNDS MAY BE USED AS FEDERAL GRANT MATCHING FUNDS

SECTION 16.1. Section 15.4 of S.L. 2003-284 reads as rewritten:

"**SECTION 15.4.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the ~~2003-2004~~ 2004-2005 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~~ 2004-2005 fiscal year, the amount of funds anticipated for the ~~2004-2005~~ 2005-2006 fiscal year, and the allocation of funds by program and purpose."

OPERATION OF BUNCOMBE YOUTH DETENTION CENTER

SECTION 16.2. Section 15.8 of S.L. 2003-284 reads as rewritten:

"**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~~ 2004-2005 fiscal year. To the extent practicable during the ~~2003-2004~~ 2004-2005 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~~ 2003-2004 fiscal year."

PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS

SECTION 16.3.(a) The Department of Juvenile Justice and Delinquency Prevention and the Department of Administration, State Construction Office, shall continue planning and design for up to 512 youth development center beds. The Department of Juvenile Justice and Delinquency Prevention shall provide a final recommended plan for new youth development centers by November 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight

Committee, 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.

The plan shall include all of the following:

- (1) The recommended number of facilities and beds, including plans for up to 512 beds at 13 sites and alternative plans for up to 512 beds at fewer sites.
- (2) The project schedule for the new facilities, from the bid phase through completion, and the juvenile occupancy of each of the facilities.
- (3) A detailed schematic of a prototype facility.
- (4) The facility staffing plan, which shall include the number of positions by job class, the unit cost per position, and the job descriptions of the positions. The plan shall also identify the number of positions to be assigned on each shift for a 24-hour period and the assigned location of each position.
- (5) A detailed transition plan for recruiting and establishing new positions and converting current positions to new job classes.
- (6) The recommended site locations for each facility, including the specific site location and the county in which each site is located.
- (7) A comparison of the cost of constructing and operating a youth development center in North Carolina to the cost of constructing and operating similar juvenile facilities in other states.
- (8) A description of major facility programs, including education, health services, recreation, therapy and clinical services, parental involvement and accountability, and aftercare programs. This description shall also identify programs for female offenders and recommend sites where female offenders will be committed.
- (9) An explanation of the security components of the new facilities, including internal and perimeter security.
- (10) Recommendations for new initiatives to provide community-based programs that will reduce youth development center populations.

The Department of Administration, State Construction Office, shall assist the Department of Juvenile Justice and Delinquency Prevention, as necessary, with the reports required by this section. The Department of Administration and the Department of Juvenile Justice and Delinquency Prevention shall not solicit bids for construction of new youth development centers until either February 1, 2005, or at least 30 days after submission of the plan, whichever is later.

SECTION 16.3.(b) The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall report upon the convening of the 2005 General Assembly on its recommendations for the new youth development centers. In making these recommendations, the Committee shall review the Department's final recommended plan and shall consider treatment and programs, security, and cost efficiency. The report shall specifically address the recommended total number of beds and centers, as well as the number of beds for each center, facility locations, staffing requirements, security needs, and programmatic needs.

YOUTH DEVELOPMENT CENTER STAFFING

SECTION 16.4.(a) With the approval of the Office of State Personnel and the Office of State Budget and Management, the Department of Juvenile Justice and Delinquency Prevention may:

- (1) Reclassify existing departmental vacant positions to establish up to 18 new positions in new job classes listed in this subsection. The Department may use departmental salary reserves and salaries from vacant positions to establish these positions. These newly established positions shall be assigned to Stonewall Jackson and Samarkand Youth Development Centers. The positions shall be reclassified as 14 youth development center youth counselors, two youth counselor supervisors, and two licensed mental health clinicians.
- (2) Use up to one hundred eighty-three thousand nine hundred ninety-two dollars (\$183,992) of salary reserves to reclassify up to 68 existing positions to 58 youth counselors and 10 youth counselor supervisors.

These new positions will provide the starting point for the potential implementation of a statewide therapeutic staffing model.

SECTION 16.4.(b) Prior to establishing new positions or reclassifying positions listed in subsection (a) of this section, the Department of Juvenile Justice and Delinquency Prevention shall prepare a long-range plan for establishing a therapeutic staffing model to be used in all youth development centers. The plan shall include:

- (1) A report on the proposed implementation of 18 new positions and reclassifications identified in subsection (a) of this section. The report shall provide information on (i) the vacant positions to be reallocated to establish new positions, (ii) the amount and source of funds used for these positions and reclassifications, (iii) how the 18 positions will be allocated between Stonewall Jackson and Samarkand and their specific duties, and (iv) how the 68 reclassified positions will be allocated among the existing youth development centers.
- (2) An outline of the cost and benefits of the proposed model for juveniles in the custody of the Department and a summary of available research regarding the use of therapeutic staffing models in juvenile facilities.
- (3) An action plan and time line for reclassifying current counselor technicians, behavioral specialists, cottage parents, or other current positions to youth counselor or youth counselor supervisor positions or to other job classes that are progressive steps towards youth counselor positions. The Department shall also estimate the number of current statewide positions likely to be reclassified to youth counselor positions, youth counselor supervisors, or other job classes based on the qualifications of the current staff.
- (4) Job specifications, salary grades, and operating costs for each new job class.
- (5) The recommended staffing for and qualifications of teachers and teacher assistants and the standards for evaluating teacher quality in youth development centers.

SECTION 16.4.(c) The Department of Juvenile Justice and Delinquency Prevention shall report by December 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, 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

on the long-range plan required by this section and the budgetary costs for statewide implementation of the therapeutic staffing model.

JUVENILE RECIDIVISM

SECTION 16.5. Pursuant to G.S. 164-42.1 and G.S. 164-43, the North Carolina Sentencing and Policy Advisory Commission shall prepare biennial reports on juvenile recidivism in North Carolina. The Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention and the Fiscal Research Division of the Legislative Services Office of the General Assembly in developing a methodology for measuring juvenile recidivism in North Carolina. The Commission shall report the proposed methodology to the 2005 General Assembly by March 1, 2005. The Commission's report shall also include a timeline for completing the initial analysis and recidivism report and any proposed legislation regarding juvenile recidivism. The report shall also include recommendations for other outcome measures that are appropriate for evaluating juvenile program effectiveness.

ELECTRONIC MONITORING OF JUVENILES

SECTION 16.6. The Department of Juvenile Justice and Delinquency Prevention shall study the issue of electronic monitoring of juveniles in consultation with the Fiscal Research Division of the Legislative Services Office of the General Assembly and shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2005, on electronic monitoring programs and electronic house arrest programs for juvenile offenders. The report shall include all of the following:

- (1) Information on current usage, including the number of juveniles in the various programs, by district, and the available capacity of the electronic programs in comparison to the current usage of the programs.
- (2) The criminal histories of the juveniles in electronic monitoring or house arrest programs and how their criminal histories compare to those of juveniles committed to youth development centers.
- (3) An analysis of the costs and benefits of passive and active global positioning systems for monitoring juvenile offenders.
- (4) A comparison of the electronic monitoring programs for juvenile offenders used by other states.
- (5) The Department's recommendations on ways to expand the use of all electronic monitoring programs, in particular as an alternative to committing juveniles to youth development centers.

ALTERNATIVES TO JUVENILE COMMITMENT/JUVENILE CRIME PREVENTION COUNCILS

SECTION 16.7. Of the funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention, the sum of five hundred thousand dollars (\$500,000) shall be used for demonstration projects of the Juvenile Crime Prevention Councils to identify effective community programs for juvenile offenders who have been committed to, or who potentially may be committed to youth development centers. These projects should be community-based and shall serve only juvenile offenders residing in the specific geographical locations. The Department shall develop a competitive grant award process that gives consideration to (i) the commitment rates or

how frequently the court orders commitment as a disposition, (ii) programs that target juveniles in rural areas, (iii) geographical representation, and (iv) collaboration among counties. The Department may award up to 10 grants to Juvenile Crime Prevention Councils and no individual grant may exceed one hundred thousand dollars (\$100,000). On June 30, 2005, any funds allocated for demonstration projects pursuant to this Section that have not been awarded by the Department shall revert to the General Fund.

EDUCATION OF JUVENILES COMMITTED TO THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SECTION 16.8. The Department of Juvenile Justice and Delinquency Prevention, in consultation with the State Board of Education and the Community Colleges System Office, shall review and develop a report on the assessment of juveniles committed to the Department of Juvenile Justice and Delinquency Prevention and the curricula, education plans, and alternative education programs for those juveniles. The Department of Juvenile Justice and Delinquency Prevention, the State Board of Education, and the Community Colleges System Office shall submit the 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 on or before March 1, 2005.

COMMUNITIES IN SCHOOLS REDUCTION

SECTION 16.9. The General Fund appropriation to the Department of Juvenile Justice and Delinquency Prevention for Communities in Schools of North Carolina, Inc., is reduced by the sum of seventy-five thousand dollars (\$75,000) for the 2004-2005 fiscal year. This reduction in funding shall be accomplished by reducing expenditures at the State office and not through reductions in funding to local Communities in Schools programs.

PART XVII. DEPARTMENT OF CORRECTION

SHIFT PAY FOR SECURITY STAFF

SECTION 17.1. Section 16.3 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.3.** The Department of Correction may use funds available for the ~~2003-2004 fiscal year~~ 2003-2005 biennium 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~~, March 1, 2005, 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 17.2. Section 16.4(c) of S.L. 2003-284 reads as rewritten:

"**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.~~ February 1, 2005. The report shall include a status report on the implementation of a centralized postaudit control system and the automation of leave records. The report shall also provide an updated staffing relief formula and the methodology used to develop the updated formula."

INMATE COSTS/ INMATE CLOTHING AND LAUNDRY SERVICES

SECTION 17.3. Section 16.6(c) of S.L. 2003-284 reads as rewritten:

"**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~~ 2003-2005 biennium 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."

FEDERAL GRANT MATCHING FUNDS

SECTION 17.4. Section 16.10 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.10.(a)** 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) in the 2003-2004 fiscal year and up to the sum of six hundred fifty thousand dollars (\$650,000) in the 2004-2005 fiscal year 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.

"**SECTION 16.10.(b)** Notwithstanding the provisions of subsection (a) of this section relating to prior reporting, the Department of Correction may use up to the sum of two hundred ninety thousand dollars (\$290,000) in the 2004-2005 fiscal year from funds available to the Department to provide the State match needed in order to receive the following federal grants:

- (1) Enhanced Offender Information for Law Enforcement, to provide new software to facilitate recovery of prison escapees;
- (2) Job Start II, a statewide program to assist offenders with securing and retaining jobs; and
- (3) Security Threat Group Management Unit, to establish nine time-limited positions and funding to respond to security threat groups (gangs) in prison and in communities. The nine positions are: one Correctional Program Director position, two Correctional Program Supervisor positions, one Staff Psychologist II position, two Correctional Behavior Specialist II positions, two Registered Nurse positions, and one Office Assistant III position.

The funds authorized for use in this subsection apply toward the six hundred fifty thousand dollar (\$650,000) limitation established in subsection (a) of this section."

ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT

SECTION 17.5. Section 16.13 of S.L. 2003-284 reads as rewritten:

"**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."~~

INMATE CUSTODY AND CLASSIFICATION SYSTEM

SECTION 17.6.(a) The Department of Correction shall review the current inmate custody and classification system, with the assistance of consultants from the National Institute of Corrections. The review shall focus primarily on the custody classification instrument used to assess inmate custody and the policies and practice of overriding the assessed custody level. The review should focus particularly on determining whether the instrument is effective in predicting custody classification, analyzing the current override rate by custody level, and assessing any need for changes in the override policy. The Department should request assistance from the National Institute of Corrections in obtaining (i) a comparison between Department of Correction override rates and policies and those of other states; (ii) suggestions on an acceptable override rate for classification systems; and (iii) any recommendations the NIC may have on the Department's custody classification instrument and override policy.

SECTION 17.6.(b) The Department shall report its findings and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than April 15, 2005.

CONFIDENTIALITY OF IDENTITIES OF PERSONS INVOLVED WITH STATE EXECUTIONS

SECTION 17.6A. G.S. 15-190 reads as rewritten:

"§ 15-190. Person or persons to be designated by warden to execute sentence; supervision of execution; who shall be present.

Some guard or guards or other reliable person or persons to be named and designated by the warden from time to time shall cause the person, convict or felon against whom the death sentence has been so pronounced to be executed as provided by this Article and all amendments thereto. The execution shall be under the general supervision and control of the warden of the penitentiary, who shall from time to time, in writing, name and designate the guard or guards or other reliable person or persons who shall cause the person, convict or felon against whom the death sentence has been pronounced to be executed as provided by this Article and all amendments thereto. At such execution there shall be present the warden or deputy warden or some person designated by the warden in the warden's place, and the surgeon or physician of the penitentiary. Four respectable citizens, two members of the victim's family, the counsel and any relatives of such person, convict or felon and a minister or member of the clergy or religious leader of the person's choosing may be present if they so desire. The identities, including the names, residential addresses, residential telephone numbers, and social security numbers, of witnesses or persons designated to carry out the execution shall be confidential and exempted from Chapter 132 of the General Statutes and are not subject to discovery or introduction as evidence in any proceeding. The Senior Resident Superior Court Judge for Wake County may order disclosure of names made

confidential by this section after making findings that support a conclusion that disclosure is necessary to a proper administration of justice."

PROVIDE THAT COLUMBUS COUNTY PRISON SHALL BE CONSTRUCTED IN ACCORDANCE WITH SAME NORTH CAROLINA STATE BUILDING CODE UNDER WHICH THE PRISONS IN SCOTLAND, ANSON, ALEXANDER, GREENE, AND BERTIE COUNTIES WERE CONSTRUCTED

SECTION 17.6B. The 1000-cell close security prototypical prison to be constructed in Columbus County shall be constructed in accordance with the North Carolina State Building Code, 1996 Edition through 1999 revisions, if construction starts before July 1, 2005. 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.

RESERVE FOR INCREASING PRISON BEDS AT PAMLICO CORRECTIONAL CENTER

SECTION 17.6C.(a) Of the funds appropriated in this act to the Department of Correction, the sum of two hundred sixteen thousand one hundred twenty-six dollars (\$216,126) shall be placed in a reserve for increasing the inmate bed capacity at Pamlico Correctional Center. These funds may be used for kitchen equipment, inmate beds and lockers, and other miscellaneous equipment if it is determined that it is feasible to increase bed capacity at Pamlico by 336 beds by double-celling medium custody inmates.

SECTION 17.6C.(b) The Department of Correction shall work in conjunction with the Department of Environment and Natural Resources and the Bay River Metro Sewage Authority to determine whether there is adequate permitted sewage and wastewater capacity for adding 336 inmates and up to 50 staff at Pamlico. This work shall include negotiations for the use of current permitted capacity with the Authority and other involved parties if feasible. The Department of Correction, in conjunction with the Department of Environment and Natural Resources and the Authority, shall also identify any potential costs of using current permitted capacity or expanding capacity. The Department of Correction shall also work with the Department of Environment and Natural Resources, the Authority, and the Department of Commerce to identify alternative funding sources, if needed, for providing sewage capacity for the expansion of Pamlico Correctional Center.

SECTION 17.6C.(c) The Department of Correction may reclassify vacant positions and use salary funds from vacant positions and salary reserves to establish up to 50 new positions to provide security, programs, and other support functions if a suitable agreement is reached on providing sewage treatment and disposal to Pamlico Correctional Center that allows for increasing inmates by up to 336 and staff by up to 50.

SECTION 17.6C.(d) The Department of Correction, in conjunction with the Department of Environment and Natural Resources and the Department of Commerce, shall provide a progress report on their work by October 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. Prior to establishing positions or expending funds from the reserve established in subsection (a) of this section, the Department of Correction shall report to the Joint Legislative Commission on Governmental Operations, or 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 if the General Assembly is in session at the time, on the sewage treatment and disposal alternatives, the recommended alternative, funding needs and sources, and time line for implementation of increased bed capacity, including staffing and inmate occupancy.

REPORTS ON NONPROFIT PROGRAMS

SECTION 17.7. Section 16.17 of S.L. 2003-284 reads as rewritten:

"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~~ served, the number of clients who successfully complete the Harriet's House ~~program~~ program, and the number of clients who have been rearrested within three years of successfully completing the 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.~~ Inc., and the number of clients who have been rearrested within three years of successfully completing the program.

"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~~ program, and the number of clients who have been rearrested within three years of successfully completing the program."

ELECTRONIC MONITORING REQUEST FOR PROPOSALS

SECTION 17.8. The Department of Correction shall issue a Request for Proposal for electronic monitoring equipment and monitoring services for the Division of Community Corrections' electronic house arrest and electronic monitoring programs. The RFP shall require separate bids: one for equipment, maintenance, and technical support, and one for the aforementioned items plus monitoring services. The Department shall design the RFP to use the most recent, cost-effective technology available; the Department shall not restrict vendors to the specifications of the equipment currently utilized by the Department.

The Department shall also issue a separate RFP for passive and active Global Positioning Systems for use as an intermediate sanction. The RFP shall require separate bids: one for equipment, maintenance, and technical support, and one for the aforementioned items plus monitoring services.

No less than 30 days prior to issuing these RFPs, the Department shall provide the Fiscal Research Division with copies of the draft RFPs. The RFPs shall be issued by December 31, 2004, for contract terms to begin July 1, 2005.

The Department of Correction shall report by March 1, 2005, 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 on the responses to the RFPs.

REPORT ON INMATES ELIGIBLE FOR PAROLE

SECTION 17.9. Section 16.20 of S.L. 2003-284 reads as rewritten:

"**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 each of the next five fiscal years, beginning with the 2004-2005 fiscal year."

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

SECTION 17.10. Section 16.21 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.21.(a)** 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.

"SECTION 16.21.(b) The Post-Release Supervision and Parole Commission shall report by January 1, 2005, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the implementation of the plan for restructuring the organization and operation of the Commission and for implementing staff reductions to reflect both declines and changes in workload. The report shall include the number of parole reviews, paroles, and post-release supervision reviews conducted per analyst per year for the last five years and the percentage of each analyst's time that was devoted to post-release supervision cases during each of those five years.

"SECTION 16.21.(c) The Sentencing and Policy Advisory Commission, in consultation with the Post-Release Supervision and Parole Commission, the Department of Correction, and the Administrative Office of the Courts, shall review the post-release supervision sentencing system and alternatives for transferring the responsibility for administering post-release supervision to another division within the Department of Correction, to the Judicial Department, or to both. Based upon its study, the Sentencing

and Policy Advisory Commission shall make written recommendations to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations no later than March 1, 2005."

CRIMINAL JUSTICE PARTNERSHIP PROGRAM

SECTION 17.11. Section 16.16 of S.L. 2003-284 reads as rewritten:

"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.~~Boards; and
- (7) An evaluation of Criminal Justice Partnership programs based upon evaluation standards designed by the Division of Community Corrections in consultation with the Fiscal Research Division and the Department of Correction, Division of Research and Planning.

"SECTION 16.16.(e) Notwithstanding the provisions of G.S. 143B-273.15, funding to programs for the 2004-2005 fiscal year shall be established according to the amounts appropriated for the 2003-2004 fiscal year. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, in consultation with the Sentencing and Policy Advisory Commission and the Department of Correction, Division of Research and Planning, shall review the Criminal Justice Partnership Program funding formula and recommend any necessary changes in that formula to the 2005 General Assembly."

COLLECTION OF OFFENDER FEES

SECTION 17.12. Section 16.15 of S.L. 2003-284 reads as rewritten:

"SECTION 16.15.(a) The Department of Correction and the Judicial Department shall report by April 1, 2004, and March 1, 2005, 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 total~~ 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.~~ years. 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.~~ include, for each judicial district: the total offender fees collected, the total fines and restitution collected, the number of offenders ordered to supervised probation, the number of offenders ordered to unsupervised probation, the number and percentage of supervised probation cases in which no payment was made, the number and percentage of unsupervised probation cases (any case in which an offender is not given an active or supervised probation sentence) in which no payment was made, and whether that judicial district enters offender information into the financial management system for all offenders required to pay fines, fees, or restitution, or whether that data is entered only when the offender makes a payment. 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.

"SECTION 16.15.(b) The Judicial Department shall make use of the new deputy clerk positions funded in this act to ensure that offender accounts payable information is entered into the financial management system within a reasonable time after sentencing. As part of this undertaking, the Judicial Department shall review the use of its financial management system to determine whether there are methods of streamlining or expediting the entry of offender accounts payable information into that system."

PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

VICTIMS COMPENSATION/MEDICAL TREATMENT

SECTION 18.1. G.S. 15B-2(1) reads as rewritten:

"(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including

those for medical care, rehabilitation, ~~medically-related~~ medically-related property, and other remedial treatment and care.

Allowable expense includes a total charge not in excess of three thousand five hundred dollars (\$3,500) for expenses related to funeral, cremation, and burial, including transportation of a body, but excluding expenses for flowers, gravestone, and other items not directly related to the funeral service.

Allowable expense for medical care, counseling, rehabilitation, medically-related property, and other remedial treatment and care of a victim shall be limited to sixty-six and two-thirds percent (66 2/3%) of the amount usually charged by the provider for the treatment or care. By accepting the compensation paid as allowable expense pursuant to this subdivision, the provider agrees that the compensation is payment in full for the treatment or care and shall not charge or otherwise hold a claimant financially responsible for the cost of services in addition to the amount of allowable expense.

TRANSFER BOXING COMMISSION DUTIES TO THE ALCOHOL LAW ENFORCEMENT DIVISION

SECTION 18.2.(a). G.S. 143-650, G.S. 143-651(5), and G.S. 143-652 are repealed.

SECTION 18.2.(b). G.S. 143-651 is amended by adding a new subdivision to read:

"(7a) Division. – The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety."

SECTION 18.2.(c). The title of Article 68 of Chapter 143 of the General Statutes is rewritten to read:

"Article 68.

"North Carolina State Boxing Commission Regulation of Boxing."

SECTION 18.2.(d). Article 68 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-652.1. Regulation of Boxing.

The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety shall regulate live boxing and kickboxing matches, whether professional, amateur, sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars (\$25.00). The Division shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, sanctioned amateur, amateur, and toughman matches and exhibitions in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

- (1) Requirements for issuance of licenses and permits required by this Article.
- (2) Regulation of ticket sales.
- (3) Physical requirements for contestants, including classification by weight and skill.
- (4) Supervision of matches and exhibitions by licensed physicians and referees.

- (5) Insurance and bonding requirements.
- (6) Compensation of participants and licensees.
- (7) Contracts and financial arrangements.
- (8) Prohibition of dishonest, unethical, and injurious practices.
- (9) Facilities.
- (10) Approval of sanctioning amateur sports organizations.
- (11) Procedures and requirements for compliance with the Professional Boxing Safety Act of 1996."

SECTION 18.2.(e). The word "Commission" shall be replaced with "Division" every place that word appears in Article 68 of Chapter 143 of the General Statutes.

SECTION 18.2.(f). G.S. 90-18.3 reads as rewritten:

"§ 90-18.3. Physical examination by nurse practitioners and physician assistants.

(a) Whenever a statute or State agency rule requires that a physical examination shall be conducted by a physician, the examination may be conducted and the form signed by a nurse practitioner or a physician's assistant, and a physician need not be present. Nothing in this section shall otherwise change the scope of practice of a nurse practitioner or a physician's assistant, as defined by G.S. 90-18.1 and G.S. 90-18.2, respectively.

(b) This section shall not apply to physical examinations conducted pursuant to G.S. 1A-1, Rule 35; G.S. 15B-12; ~~G.S. 90-14; or any rules adopted by the North Carolina Boxing Commission requiring physical examinations G.S. 90-14~~ unless those statutes or rules are amended to make the provisions of this section applicable."

SECTION 18.2.(g). The Department of Crime Control and Public Safety shall use funds available from salary reserves to reclassify the two positions in the North Carolina State Boxing Commission and transfer them to the Alcohol Law Enforcement Division.

CLARIFY THE AUTHORITY OF THE STATE HIGHWAY PATROL TO OPERATE WEIGH STATIONS

SECTION 18.3.(a) The title to Article 3B of Chapter 20 of the General Statutes reads as rewritten:

"Article 3B.

Permanent ~~Weighing~~ Weigh Stations and Portable Scales."

SECTION 18.3.(b) G.S. 20-183.9 reads as rewritten:

"§ 20-183.9. Establishment and maintenance of permanent ~~weighing~~ weigh stations.

The Department of Crime Control and Public Safety is hereby authorized, empowered and directed to equip, operate, and maintain permanent ~~weighing~~ weigh stations equipped to weigh vehicles using the streets and highways of this State to determine whether such vehicles are being operated in accordance with legislative enactments relating to weights of vehicles and their loads. The permanent ~~weighing~~ weigh stations shall be established at such locations on the streets and highways in this State as will enable them to be used most advantageously in determining the weight of vehicles and their loads."

SECTION 18.3.(c) G.S. 20-183.10 reads as rewritten:

"§ 20-183.10. Operation of the permanent weigh stations by the Department of Crime Control and Public ~~Safety~~ Safety, Division of State Highway Patrol, uniformed personnel with powers of peace officers, personnel.

The permanent ~~weighing-weigh~~ stations to be established pursuant to the provisions of this Article shall be operated by the Department of Crime Control and Public Safety ~~Safety, Division of State Highway Patrol, who shall assign a sufficient number of sworn and nonsworn personnel and the personnel assigned to the various stations-weigh stations.~~ Sworn personnel of the Division of State Highway Patrol shall supervise all ~~nonsworn personnel assigned to weigh stations.~~ The sworn and nonsworn personnel shall have authority to weigh vehicles and to assess civil penalties pursuant to Article 3, Part 9 of this Chapter and shall wear uniforms to be selected and furnished by the Department of Crime Control and Public Safety. ~~Safety, Division of State Highway Patrol. The uniformed sworn and nonsworn personnel assigned to the various permanent weigh stations shall weigh vehicles and complete various reports as may be necessary for recording violations relating to the weight of vehicles and their loads.~~ The uniformed officers assigned to the various permanent ~~weighing-weigh~~ stations shall have the powers of peace officers for the purpose of enforcing the provisions of this Chapter and in making arrests, serving process, and appearing in court in all matters and things relating to the weight of vehicles and their loads."

SECTION 18.3.(d) G.S. 20-364 reads as rewritten:

"§ 20-364. Route changes.

Irrespective of the route shown on the permit, an alternate route will be followed:

- (1) If directed by a peace officer.
- (2) If directed by a uniformed officer assigned to a ~~weighing-weigh~~ station to follow a route to a weighing device.
- (3) If the specified route is officially detoured. Should a detour be encountered, the driver shall check with the office issuing permit on which he is traveling prior to proceeding."

REPORT ON VIPER SYSTEM

SECTION 18.4. The Criminal Justice Information Network (CJIN) Governing Board and the Department of Crime Control and Public Safety shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the Voice Interoperability Plan for Emergency Responders (VIPER) system. The report shall include a detailed project plan for the VIPER system, the projected costs to the State for the system, the revenue sources to fund the system, and the amount of total State funding, including Highway Fund support, recommended by the CJIN Board and the Department. The report shall also address the potential cost to, and any other impact on, county and local governments. The Department and the CJIN Board shall report pursuant to this section on or before December 1, 2004.

PART XIX. DEPARTMENT OF ADMINISTRATION

ALLOCATION OF THE PETROLEUM VIOLATION ESCROW FUNDS

SECTION 19.1.(a) There is appropriated from funds and interest thereon received from the case of United States v. Stripper Well that remain in the Special Reserve for Oil Overcharge Funds to the Department of Administration the sum of five million dollars (\$5,000,000) for the 2004-2005 fiscal year to be allocated for projects that were approved by the State Energy Policy Council in April 2004.

SECTION 19.1.(b) There is appropriated from funds and interest thereon 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 2004-2005 fiscal year to be allocated for the Weatherization Assistance Program.

SECTION 19.1.(c) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation made pursuant to subsections (a) and (b) 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.

STATE VETERANS CEMETERIES TO PROVIDE BURIAL SERVICES ON WEEKENDS

SECTION 19.2.(a) Article 8A of Chapter 65 of the General Statutes is amended by adding a new section to read:

"§ 65-44. Days for burial.

Notwithstanding any other provision of law, burial services shall be conducted at the Coastal Carolina State Veterans Cemetery and the Sandhills State Veterans Cemetery from Monday through Sunday, except when the day for services falls on a State holiday."

SECTION 19.2.(b) The Department of Administration may use funds credited to the Veterans Burial Fund for the 2004-2005 fiscal year to cover costs incurred as a result of burials on Saturday or Sunday.

STUDY OF STATE-FUNDED ADVERTISING

SECTION 19.3.(a) The Office of State Budget and Management, in collaboration with the Department of Administration, shall conduct a study of the State agencies' requirements for advertisements and public service announcements. The study shall include a review of the nature and cost of the advertisements and public service announcements. The study shall consider (i) the extent to which the North Carolina Agency for Public Telecommunication (APT) can efficiently and effectively provide the services related to the development and placement of these advertisements and public service announcements at a savings to the State, and (ii) whether the services should be provided by APT, decentralized, or outsourced.

SECTION 19.3.(b) The Office of State Budget and Management shall submit a report of its findings and recommendations to the Chairs of the Appropriations Subcommittees on General Government of the Senate and House of Representatives by December 1, 2004.

VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT FUND

SECTION 19.4. Section 18.5(c) of S.L. 2003-284 reads as rewritten:

"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-nine hundred twenty-eight~~ three thousand three hundred twenty-four dollars ~~(\$3,728,324)~~ (\$3,903,324) ~~for each year the 2004-2005 fiscal year."~~

RELOCATION AND RENT EXPENSES ASSOCIATED WITH THE SALE OF POLK BUILDING

SECTION 19.5. Upon the sale of the James K. Polk Building in the City of Charlotte, the Director of the Budget may use any available funds to pay related moving

and rent expenses for the 2004-2005 fiscal year, not to exceed eight hundred ninety thousand six hundred thirty-four dollars (\$890,634). Up to one hundred sixty thousand one hundred one dollars (\$160,101) shall be used to cover the expenses of relocating the offices of the University of North Carolina at Chapel Hill TEACH program, the Office of Administrative Hearings, the Office of the State Auditor, and the Departments of Administration, Commerce, Correction, Crime Control and Public Safety, Health and Human Services, and Revenue, that are currently housed in the Polk Building. Up to seven hundred thirty thousand five hundred thirty-three dollars (\$730,533) shall be used to cover the rent expense incurred by those State agencies for the 2004-2005 fiscal year as a result of the relocation.

CONTINUATION OF THE STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF ADMINISTRATION

SECTION 19.6. Section 18.2 of S.L. 2003-284 reads as rewritten:

"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-continue the study that was completed during the 2003-2004 fiscal year of 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 include both the advocacy and service functions of the Division of Veterans Affairs, the Council for Women and the Domestic Violence Commission, the Commission of Indian Affairs, the Governor's Advocacy Council for Persons with Disabilities, the Human Relations Commission, and the Youth Advocacy and Involvement Office. 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, 2004-2005."

DESIGN AND ADVANCE PLANNING FOR STATE VETERANS CEMETERY

SECTION 19.7. Of the funds appropriated in this act to the Department of Administration, the Department shall use up to three hundred thousand dollars (\$300,000) for the 2004-2005 fiscal year to fund the design and advance planning cost for the expansion of the State veterans cemetery located in Jacksonville. Any reimbursement from the U.S. Department of Veterans Affairs for the amount expended on the design and advance planning of the cemetery expansion project shall be deposited into the General Fund.

TRANSFER LIGHT GROUND POCOSIN TO WILDLIFE RESOURCES COMMISSION

SECTION 19.8. The 1,094-acre Light Ground Pocosin property in Pamlico County is reallocated from the Department of Administration to the Wildlife Resources Commission. Notwithstanding any other provision of law, the Wildlife Resources Commission shall manage the property as gamelands for hunting, fishing, outdoor recreation, nature study, water quality, and conservation of natural resources.

IMPLEMENT BLOUNT STREET PROPERTY SALE

SECTION 19.9. Section 1.(d) of S.L. 2003-404 reads as rewritten:

"**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)~~ five hundred thousand dollars (\$500,000) to implement the provisions of this act."

NORTH CAROLINA YOUTH ADVOCACY AND INVOLVEMENT FUND

SECTION 19.10. G.S. 143B-387.1 reads as rewritten:

"**§ 143B-387.1. North Carolina Youth ~~Legislative Assembly~~ Advocacy and Involvement Fund.**

The North Carolina Youth ~~Legislative Assembly~~Advocacy and Involvement Fund is created as a special and nonreverting fund. ~~North Carolina Youth Legislative Assembly~~Conference registration fees, gifts, donations, or contributions to or for the North Carolina Youth Legislative Assembly (YLA) and the North Carolina Students Against Destructive Decisions (SADD) programs shall be credited to the ~~North Carolina Youth Legislative Assembly~~ Fund.

The ~~fund~~ Fund shall be used solely to support planning and execution of the ~~North Carolina Youth Legislative Assembly~~YLA and SADD programs. The Department shall maintain separate cost centers for each program."

PART XX. OFFICE OF THE STATE AUDITOR**AUDITOR TO REDUCE SPAN OF CONTROL**

SECTION 20.1. The State Auditor shall reduce the span of control for the Office of the State Auditor by eliminating two senior management positions no later than January 1, 2005. In reducing the span of control, the State Auditor shall ensure that the Office has no more than two Deputy Auditor positions. Funds appropriated for the positions that are eliminated shall be used to create additional audit positions for the nongovernmental and investigative audit sections. The State Auditor shall report to the Chairs of the Appropriations Subcommittees on General Government of the Senate and House of Representatives by December 1, 2004.

PART XX-A. HOUSING FINANCE AGENCY

HOUSING FINANCE AGENCY SHALL CREATE THE NORTH CAROLINA HOME PROTECTION PILOT PROGRAM AND LOAN FUND IN ORDER ASSIST NORTH CAROLINA WORKERS WHO HAVE LOST JOBS AS A RESULT OF CHANGING ECONOMIC CONDITIONS IN NORTH CAROLINA WHEN THE WORKERS ARE IN NEED OF TEMPORARY ASSISTANCE TO AVOID LOSING THEIR HOMES TO FORECLOSURE

SECTION 20A.1.(a) The North Carolina Housing Finance Agency shall develop, implement, and administer a pilot program to assist North Carolina workers who have lost jobs as a result of changing economic conditions in North Carolina when the workers are in need of assistance to avoid losing their homes to foreclosure. The Agency shall do all of the following:

- (1) Develop and administer the North Carolina Home Protection Pilot Program and Loan Fund to ensure that workers in the counties selected for the Pilot have assistance to avoid losing their homes to foreclosure.

The Program shall include counties selected at the discretion of the Agency on the basis of increased rates of foreclosure, actual foreclosure filings, unemployment, the need of local counseling agencies for increased capacity to serve clients in need of assistance to avoid losing their homes to foreclosure, the availability of funds, and other factors the Agency determines to be relevant.

- (2) Make loans secured by liens on residential real property located in North Carolina to property owners who are eligible for those loans.
- (3) Develop and administer procedures by which property owners at risk of being foreclosed upon may qualify for assistance.
- (4) Designate, approve, and fund nonprofit counseling agencies in counties participating in the Program to be available to assist the Agency in implementing the provisions of this section, and to provide services such as direct mortgagee negotiations on behalf of unemployed workers, and to process loan applications for the Agency.
- (5) Develop and fund enhanced methods by which workers may be notified of foreclosure mitigation services, may easily contact local nonprofit counseling agencies, and may apply for loans from the Agency.
- (6) No later than May 1, 2005, report to the General Assembly on the effectiveness of the Program in accomplishing its purposes, and provide any other information the Agency determines is pertinent or that the General Assembly requests.

SECTION 20A.1.(b) As used in this section, the following definitions apply:

- (1) Agency. – The North Carolina Housing Finance Agency.
- (2) Counseling agency. – A nonprofit counseling agency located in North Carolina that is approved by the North Carolina Housing Finance Agency.
- (3) Mortgage. – An obligation evidenced by a security document and secured by a lien upon real property located within North Carolina, including a deed of trust and land sale agreement. Mortgage also means an obligation evidenced by a security lien on real property upon which an owner-occupied mobile home is located.
- (4) Mortgagee. – The owner of a beneficial interest in a mortgage loan, the servicer for the owner of a beneficial interest in a mortgage loan, or the trustee for a securitized trust that holds title to a beneficial interest in a mortgage loan.

SECTION 20A.1.(c) The North Carolina Housing Finance Agency shall conduct a study and convene meetings of experts for the purpose of developing a report to the 2005 General Assembly. The report shall include recommendations regarding (i) the problem of increasing foreclosure filings statewide, (ii) improvements to the laws regarding foreclosure procedures and other laws that impact foreclosure filings, and (iii) the benefits and feasibility of creating a foreclosure avoidance loan fund. The Agency may use no more than twenty-five thousand dollars (\$25,000) of the funds appropriated in this act to the Agency to implement this subsection. The Agency shall report its recommendations to the General Assembly on or before May 1, 2005.

SECTION 20A.1.(d) Notwithstanding Chapters 23, 24, and 45 of the General Statutes or any other provision of law, upon the proper filing of an application

for loan assistance by a mortgagor under this section, a mortgagee shall not do the following:

- (1) Accelerate the maturity of any mortgage obligation covered under this section.
- (2) Commence or continue any legal action, including mortgage foreclosure pursuant to Chapter 45 of the General Statutes, to recover the mortgage obligation.
- (3) Take possession of any security of the mortgagor for the mortgage obligation.
- (4) Procure or receive a deed in lieu of foreclosure.
- (5) Enter judgment by confession pursuant to a note accompanying a mortgage.
- (6) Proceed to enforce the mortgage obligation pursuant to applicable rules of civil procedure for a period of 120 days following the date of the mortgagor's properly filed application.

The provisions of this section shall not apply if the mortgagee receives notice from the Agency that the mortgagor's application has been denied.

If a mortgagee acts as proscribed in subdivisions (1) through (6) of this subsection, a mortgagor shall be entitled to injunctive relief without the necessity of providing a bond. This relief shall be in addition to any defenses available under G.S. 45-21.16(d) and any other remedies at law or equity.

Upon the Agency's receipt of a properly filed mortgagor's application for loan assistance, the Agency shall mail notice of the application to the mortgagor's mortgagee within five business days of the Agency's receipt of the application. The Agency shall also mail notice of the acceptance or denial of the mortgagor's application to the mortgagee within five days of the Agency's determination. Notice shall be deemed sufficient if sent to the last known address of the mortgagee.

SECTION 20A.1.(e) Rule Making. – Solely with respect to the adoption of procedures for the pilot program by which property owners at risk of being foreclosed upon may qualify for assistance, the Agency is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of procedures, the Agency shall:

- (1) Publish the proposed procedures in the North Carolina Register at least 30 days prior to the adoption of the final procedures.
- (2) Accept oral and written comments on the proposed procedures.
- (3) Hold at least one public hearing on the proposed procedures.

PART XXI. DEPARTMENT OF INSURANCE

REMOVE SUNSET FOR FUNDING CERTAIN OPERATIONS OF THE DEPARTMENT OF INSURANCE THROUGH THE INSURANCE REGULATORY FUND

SECTION 21.1. Section 12 of S.L. 2002-144, as amended by Section 22.2 of S.L. 2003-284, reads as rewritten:

"**SECTION 12.** This act becomes effective July 1, 2002. ~~Sections 1 through 8 of this act expire June 30, 2004.~~"

HANDBOOKS ON BUILDING CODE NOT REQUIRED

SECTION 21.2. G.S. 143-138(d) reads as rewritten:

"(d) Amendments of the Code. – The Building Code Council may revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code.

~~Handbooks providing explanatory material on Code provisions shall be provided no later than January 1, 2000, and shall be updated with each revision of the Code or, in the discretion of the Council, more frequently. The Department may charge a reasonable fee for the handbooks."~~

CONTINUING EDUCATION REQUIREMENTS FOR BAIL BONDSMEN

SECTION 21.3. G.S. 58-71-71(b) reads as rewritten:

"(b) Each year every licensee shall complete at least ~~six~~three hours of continuing education in subjects related to the duties and responsibilities of a runner or bail bondsman before renewal of the license. This continuing education shall not include a written or oral examination. A person who receives his first license on or after January 1 of any year does not have to comply with this subsection until the period between his first and second license renewals."

PART XXII. INFORMATION TECHNOLOGY

MULTIYEAR MAINTENANCE CONTRACTS

SECTION 22.1. Section 21.2 of S.L. 2003-284 reads as rewritten:

"**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,~~June 30, 2004, and before July 1, ~~2004-2005.~~
- (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-A. OFFICE OF ADMINISTRATIVE HEARINGS

RULES REVIEW COMMISSION TRANSFERRED TO OFFICE OF ADMINISTRATIVE HEARINGS; AUTHORIZATION FOR RULES REVIEW COMMISSION TO OBTAIN OUTSIDE COUNSEL

SECTION 22A.1.(a) All personnel and equipment presently assigned to the Rules Review Commission for the purpose of carrying out Article 2A of Chapter 150B of the General Statutes, are transferred to the Office of Administrative Hearings by a Type I transfer as defined by G.S. 143A-6(a). The Chief Administrative Law Judge shall be responsible for the hiring of the Director and other staff of the Rules Review Commission.

SECTION 22A.1.(b) G.S. 143B-30.1 reads as rewritten:

"§ 143B-30.1. Rules Review Commission created.

(a) The Rules Review Commission is created. The Commission shall consist of 10 members to be appointed by the General Assembly, five upon the recommendation of the President Pro Tempore of the Senate, and five upon the recommendation of the Speaker of the House of Representatives. These appointments shall be made in accordance with G.S. 120-121, and vacancies in these appointments shall be filled in accordance with G.S. 120-122. Except as provided in subsection (b) of this section, all appointees shall serve two-year terms.

(b) In 1990, two of the appointments made by the General Assembly upon the recommendation of the President of the Senate shall expire June 30, 1991, and two shall expire June 30, 1992. In 1990, two of the appointments made by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall expire June 30, 1992, and two shall expire June 30, 1993. Subsequent terms shall be for two years.

(c) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, ineligibility, death, or disability of any member shall be for the balance of the unexpired term. The chairman shall be elected by the Commission, and he shall designate the times and places at which the Commission shall meet. The Commission shall meet at least once a month. A quorum of the Commission shall consist of six members of the Commission. ~~The Commission is an independent agency under Article III, Section 11 of the Constitution.~~ The Chief Administrative Law Judge, Office of Administrative Hearings, shall be responsible for the hiring and supervision of the Director and staff to the Commission.

(d) Members of the Commission who are not officers or employees of the State shall receive compensation of two hundred dollars (\$200.00) for each day or part of a day of service plus reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence at the rate set out in G.S. 138-6.

(e) Any other provision of the General Statutes notwithstanding, the appointment of employees of the Commission shall be made by the ~~Commission~~ Chief Administrative Law Judge, Office of Administrative Hearings. Nothing in this Article shall be construed to exempt employees of the Commission from the State Personnel Act.

(f) The Commission shall prescribe procedures and forms to be used in submitting rules to the Commission for review. The Commission may have computer access to the North Carolina Administrative Code to enable the Commission and its staff to view and copy rules in the Code."

SECTION 22A.1.(c) The Rules Review Commission may hire outside counsel, the expenses to be paid from the Reserve Fund. Outside counsel for the Rules Review Commission shall be selected by the Chief Administrative Law Judge, Office of Administrative Hearings.

SECTION 22A.1.(d) Subsection (a) of this section becomes effective October 1, 2004. The remainder of this section becomes effective July 1, 2004.

PART XXIII. DEPARTMENT OF REVENUE

EXTEND DOR CALL CENTER FEE USE

SECTION 23.1. Section 22.6(a) of S.L. 2002-126, as amended by Section 23.1 of S.L. 2003-284, reads as rewritten:

"SECTION 22.6.(a) 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 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. Of the funds appropriated in this subsection, the sum of three million dollars (\$3,000,000) that was designated for the 2003-2005 biennium to pay for the costs of establishing and equipping a central taxpayer telecommunications service center does not revert at the end of the 2004-2005 fiscal year but remains available until June 30, 2006, for operating costs of the service center."

DEPARTMENT OF REVENUE DEBT FEE FOR TAXPAYER LOCATER SERVICES AND COLLECTION

SECTION 23.2.(a) G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. ~~to pay contractors for collecting tax debts under subsection (b) of this section and to pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.~~ The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department may apply the fee proceeds for the following purposes:

- (1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.
- (2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.

- (3) To pay for taxpayer locator services, not to exceed one hundred thousand dollars (\$100,000) a year."

SECTION 23.2.(b) Funds are appropriated in this act from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue for postage for correspondence directly and primarily relating to collecting overdue tax debts, for operating expenses for Project Collect Tax, and for expenses of the Examinations and Collections Division directly and primarily relating to collecting overdue tax debts as defined in G.S. 105-243.1. The Department of Revenue and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts as defined in G.S. 105-243.1 from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department of Revenue must report to the 2005 General Assembly on its implementation of this section.

MODIFY DEPARTMENT OF REVENUE REPORTING TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS

SECTION 23.3.(a) Section 22.6(c) of S.L. 2002-126 reads as rewritten:

"**SECTION 22.6.(c)** Beginning January 1, 2003, and ending ~~on the second quarter~~ six months following completion of the projects described in subsection (a) of this section, the Department of Revenue must report ~~quarterly~~ semiannually to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center."

SECTION 23.3.(b) G.S. 105-256(e) is repealed.

SECTION 23.3.(c) G.S. 105-243.1(f) reads as rewritten:

"(f) Reports. – The Department must report semiannually to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to collect tax debts. ~~Reports must be submitted quarterly beginning November 1, 2001, through June 30, 2005, and semiannually thereafter.~~ Each report must include a breakdown of the amount and age of tax debts collected by collection agencies on contract, the amount and age of tax debts collected by the Department through warning letters, and the amount and age of tax debts otherwise collected by Department personnel. The report must itemize collections by type of tax. Each report must also include a long-term collection plan, a timeline 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."

REVENUE LAW ENFORCEMENT OFFICERS

SECTION 23.4. G.S. 105-236.1(a) reads as rewritten:

"(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter.

The Secretary may appoint up to 11 employees of the Motor Fuels Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed by Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

The Secretary may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

- (1) The felony and misdemeanor tax violations in G.S. 105-236.
- (2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.
- (3) The following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes:
 - a. G.S. 14-91 (Embezzlement of State Property).
 - b. G.S. 14-92 (Embezzlement of Funds).
 - c. G.S. 14-100 (Obtaining Property By False Pretenses).
 - d. G.S. 14-119 (Forgery).
 - e. G.S. 14-120 (Uttering Forged Paper).
 - f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes)."

BUSINESS TAXATION STUDY

SECTION 23.5. The Department of Revenue may use up to two hundred fifty thousand dollars (\$250,000) of funds available to it for the 2004-2005 fiscal year for information technology necessary to estimate the revenue impact of proposals to improve State business taxation. The Department shall create computer-modeling capability to predict the fiscal effect of proposed changes.

PART XXVI. STATE BOARD OF ELECTIONS

INCREASE HAVA MATCH FUNDS

SECTION 26.1. Section 25.1 of S.L. 2003-284 reads as rewritten:

"**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 and the sum of \$1,521,918 is transferred in the 2004-2005 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~~ \$1,232,508 shall be available for expenditure in the 2003-2004 fiscal year, and the remaining ~~\$733,455~~ \$2,211,625 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 for the 2003-2004 fiscal year and \$1,521,918 for the 2004-2005 fiscal year 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 and 2004 approved funding, it is estimated that North Carolina will receive ~~\$22.6 million~~ \$23,431,708 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)~~ twenty-three million four hundred thirty-one thousand seven hundred eight dollars (\$23,431,708) estimated federal funds in 2003-2004; ~~thirteen million nine hundred forty-four thousand dollars (\$13,944,000)~~ forty-two million forty-six thousand one hundred dollars (\$42,046,100) 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. one million two hundred thirty-two thousand five hundred eight dollars (\$1,232,508) in 2003-2004 and two million two hundred eleven thousand six hundred twenty-five dollars (\$2,211,625)

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)."

STATE BOARD OF ELECTIONS FUNDS TO FINANCE JUDICIAL CAMPAIGNS

SECTION 26.2.(a) Funds appropriated to the State Board of Elections for the 2003-2004 fiscal year that are unexpended and unencumbered as of June 30, 2004, shall not revert to the General Fund but shall remain available to the Board to finance judicial campaigns.

SECTION 26.2.(b) This section becomes effective June 30, 2004.

PART XXVII. OFFICE OF STATE BUDGET AND MANAGEMENT

NC HUMANITIES COUNCIL

SECTION 27.1. Section 26.1 of S.L. 2003-284 reads as rewritten:

"NC HUMANITIES COUNCIL

SECTION 26.1. The North Carolina Humanities Council shall:

- (1) By January 15, ~~2004,2005~~, 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 ~~2002-2003~~2003-2004 program activities, objectives, and accomplishments;
 - b. State fiscal year ~~2002-2003~~2003-2004 itemized expenditures and fund sources;
 - c. State fiscal year ~~2003-2004~~2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, ~~2003,2004~~; and
 - d. State fiscal year ~~2003-2004~~2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, ~~2003,2004~~.
- (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."

EXPLORIS MUSEUM

SECTION 27.2. As a condition of accepting any State funds, the Board of Directors of the Exploris Museum shall review management of the museum's resources and develop a plan that will result in the museum becoming financially self-sustaining.

MARINE CORPS MUSEUM OF THE CAROLINAS

SECTION 27.3. If any funds are allocated under this act to the Marine Corps Museum of the Carolinas, a nonprofit corporation, the funds shall be used only to assist with planning a museum to honor the men and women who have served in the United States Marine Corps in the Carolinas, and the funds shall be kept in a separate account by that corporation. No funds shall be allocated unless the Marine Corps Museum of the Carolinas, a nonprofit corporation, agrees that the provisions of Chapter 132 of the General Statutes (the Public Records Law) apply as to that separate fund. The Marine Corps Museum of the Carolinas shall report quarterly to the Office of State Budget and

Management and to the Fiscal Research Division on expenditures from that separate fund, in addition to any other reporting required by law.

PART XXVIII. OFFICE OF THE STATE CONTROLLER

OVERPAYMENTS AUDIT

SECTION 28.1.(a) During the 2004-2005 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 28.1.(b) For the 2004-2005 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 28.1.(c) All funds available in the Special Reserve Account 24172 on July 1, 2004, are transferred to the General Fund on that date.

SECTION 28.1.(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 2005 Regular Session.

SECTION 28.1.(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.

STATE BUSINESS INFRASTRUCTURE PROJECT

SECTION 28.2.(a) The State Controller is authorized to utilize up to one million eight hundred thousand dollars (\$1,800,000) from the Flexible Benefits Reserve to continue the State Business Infrastructure Project (SBIP) as outlined in the report provided to the 2004 Session of the General Assembly. These funds will address the Human Resources/Payroll component of this project and may be used to secure contractual services and project management to accomplish the following:

- (1) Identify, review, and document current Human Resources/Payroll business processes and workflows of the State and recommend new reengineered business processes where applicable.
- (2) Document new system requirements and specifications including process, function, data, security, and other technical requirements.
- (3) Prepare a Request for Proposal (RFP) for software licenses, design, and implementation of a new integrated Human Resources/Payroll system.

Prior to taking action beyond this scope, the completed RFP shall be submitted to the 2005 Session of the General Assembly for funding.

SECTION 28.2.(b) This section does not apply to institutions of The University of North Carolina or the North Carolina Community College System.

SECTION 28.2.(c) This section does not apply if Senate Bill 991, 2003 Regular Session, becomes law.

EMPLOYMENT REPORTING: FEDERAL COMPLIANCE

SECTION 28.3.(a) The Office of the State Controller may use up to three hundred thousand dollars (\$300,000) in budget code 24172, OSC Recovery Fund, for the 2004-2005 fiscal year to acquire compliance software to be used by all State agencies to ensure compliance with all federal laws for the employment of, and reporting of payments to, aliens, as that term is defined in federal law. The Office of the State Controller shall transfer up to one hundred thousand dollars (\$100,000) in budget code 24172, OSC Recovery Fund, for the 2004-2005 fiscal year to the Office of State Personnel for model training and for a contract position to ensure compliance with such federal laws. Funds are hereby appropriated from the OCS Recovery Fund for the 2004-2005 fiscal year to implement this section.

SECTION 28.3.(b) The Board of Governors of The University of North Carolina and the North Carolina Community College System shall use funds within their budgets to ensure compliance with all federal laws for the employment of, and reporting of payments to, aliens, as that term is defined in federal law.

PART XXIX. DEPARTMENT OF THE STATE TREASURER

REESTABLISH STATE INVESTMENT OFFICER POSITION

SECTION 29.1. The position of State Investment Officer shall be reestablished in the Investment Division of the Department of State Treasurer. The State Treasurer shall fix the compensation of the State Investment Officer in an amount up to one hundred fifty thousand dollars (\$150,000) per year. The State Treasurer may award the State Investment Officer an annual performance-based incentive bonus, not to exceed thirty percent (30%) of salary, based upon the officer's achievement of specific goals and objectives set by the Treasurer. The State Treasurer shall report the incentive bonus paid to the Chief Investment Officer to the Joint Legislative Commission on Governmental Operations by October 1 of each year.

PART XXX. DEPARTMENT OF TRANSPORTATION

SMALL CONSTRUCTION AND CONTINGENCY FUNDS

SECTION 30.1.(a) Of the funds appropriated in this act to the Department of Transportation:

- (1) Twenty-one million dollars (\$21,000,000) shall be allocated in fiscal year 2004-2005 for small construction projects recommended by the member of the Board of Transportation representing the division in which the project is to be constructed in consultation with the division engineer and approved by the Board of Transportation. These funds shall be allocated equally among the 14 highway divisions for small construction projects.
- (2) Fifteen million dollars (\$15,000,000) 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, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be 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.

SECTION 30.1.(b) Section 29.2 of S.L. 2003-284 is repealed.

CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 30.2.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2005-2006	\$1,416.3 million
For Fiscal Year 2006-2007	\$1,452.3 million
For Fiscal Year 2007-2008	\$1,512.4 million
For Fiscal Year 2008-2009	\$1,571.4 million

SECTION 30.2.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2005-2006	\$1,074.9 million
For Fiscal Year 2006-2007	\$1,115.4 million
For Fiscal Year 2007-2008	\$1,168.9 million
For Fiscal Year 2008-2009	\$1,220.2 million

SECTION 30.2.(c) Section 29.1 of S.L. 2003-284 is repealed.

ENSURE CASH-FLOW FUND AVAILABILITY

SECTION 30.3.(a) G.S. 136-176(a1) reads as rewritten:

"(a1) The Department shall use two hundred twenty million dollars (\$220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars (\$212,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars (\$255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:

- (1) For primary route pavement preservation. – One hundred seventy million dollars (\$170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars (\$150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:
 - a. Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or
 - b. Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.
- (2) For preliminary engineering costs not included in the current year Transportation Improvement Program. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

- (3) For computerized traffic signal systems and signal optimization projects. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.
- (4) For public transportation twenty million dollars (\$20,000,000) in fiscal year 2001-2002, twenty-five million dollars (\$25,000,000) in fiscal year 2002-2003, and seventy-five million dollars (\$75,000,000) in fiscal year 2003-2004.
- (5) For small urban construction projects. – Seven million dollars (\$7,000,000) in fiscal year 2002-2003.

Funds authorized for use by the Department pursuant to this subsection shall remain available to the Department until expended."

SECTION 30.3.(b) G.S. 136-176(a3) reads as rewritten:

"(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.

Funds authorized for obligation and use by the Department pursuant to this subsection shall remain available to the Department until expended."

VISITOR CENTER FUNDS

SECTION 30.3A. G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

...

- (2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~five hundred twenty-five thousand dollars (\$525,000)~~ nine hundred thousand dollars (\$900,000) to provide operating assistance for the Visitor Centers:
 - a. on U.S. Highway 17 in Camden County, ~~(\$75,000);(\$100,000);~~
 - b. on U.S. Highway 17 in Brunswick County, ~~(\$75,000);(\$100,000);~~
 - c. on U.S. Highway 441 in Macon County, ~~(\$75,000);(\$100,000);~~
 - d. in the Town of Boone, Watauga County, ~~(\$75,000);(\$100,000);~~
 - e. on U.S. Highway 29 in Caswell County, ~~(\$75,000);(\$100,000);~~

- f. on U.S. Highway 70 in Carteret County, ~~(\$75,000);~~ (\$100,000);
and
- g. on U.S. Highway 64 in Tyrrell County, ~~(\$75,000);~~ (\$100,000);
- h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, (\$100,000); and
- i. on U.S. Highway 221 in McDowell County, (\$100,000)."

ANNUAL OVERWIDTH VEHICLE MOVEMENT PERMITS AND ESCORT DRIVER TRAINING FOR AGRICULTURAL VEHICLES

SECTION 30.3E.(a) G.S. 20-119 is amended by adding a new subsection to read:

"(g) The Department of Transportation shall issue annual overwidth permits for vehicles carrying agricultural equipment or machinery from the dealer to the farm or from the farm to the dealer that do not exceed 14 feet in width. These permits shall be valid for unlimited movement without escorts on all State highways where the overwidth vehicles do not exceed posted bridge and load limits."

SECTION 30.3E.(b) 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. The Department of Transportation shall develop and implement an in-house training program for agricultural machinery escorts by September 1, 2004."

CURRITUCK COUNTY AIRPORT LAND CONVEYANCE

SECTION 30.3F. The State of North Carolina shall convey to Currituck County, for consideration of one dollar (\$1.00), title to the land on which the Currituck County Airport is situated.

AIRPORT GRANTS FOR IMMINENT SAFETY THREATS

SECTION 30.3G. Of the funds appropriated to the Department of Transportation for Airport Grants, the Department shall give priority in making grants to facilities facing imminent safety threats.

DEPARTMENT OF TRANSPORTATION SHALL PAVE AREAS IN NORTH CAROLINA INDIAN CULTURAL CENTER

SECTION 30.5. The Department of Transportation shall pave the appropriate areas inside the North Carolina Indian Cultural Center.

PASSENGER VEHICLES TOWING OTHER VEHICLES TO KEEP RIGHT

SECTION 30.6.(a) Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-147.1. Passenger vehicle towing other vehicles to keep right."

Whenever a noncommercial passenger vehicle as defined in G.S. 20-4.01(27)g. is towing another vehicle as defined in G.S. 20-4.01(49), the driver of the towing vehicle shall at all times cause that vehicle to travel on the right half of the highway, or if the highway is divided into two or more lanes in the right-most lane of travel, unless that lane is obstructed or impassable. These towing vehicles shall also comply with all signage for vehicles of three or more axles erected pursuant to G.S. 20-146(d)(3)."

SECTION 30.6.(b) This Section becomes effective December 1, 2004, and applies to offenses committed on or after that date.

WESTERN NORTH CAROLINA PASSENGER RAIL SERVICE PROPERTY ACQUISITION

SECTION 30.8. The Rail Division may use up to one million sixty-six thousand dollars (\$1,066,000) of the funds placed in the Western North Carolina Reserve created by Section 25.13 of S.L. 2000-67 for property acquisition and infrastructure improvements in the Biltmore Village area of Asheville to develop a terminus for western North Carolina passenger rail service.

FUNDS FROM DEPARTMENT OF REVENUE'S FUEL TAX ACTION PLAN

SECTION 30.9. Any funds received by the Department of Transportation as a result of the Department of Revenue's Fuel Tax Action Plan in an amount greater than the costs of administering the program during the 2004-2005 fiscal year shall be distributed equally among the 14 Highway Divisions. One-half of the funds distributed to each Highway Division shall be used for contract resurfacing and the remaining one-half of the funds distributed to each Highway Division shall be used for highway maintenance.

The Department of Revenue shall submit periodic reports to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on the implementation of the Department's Fuel Tax Action Plan. The initial report shall describe the plan, the steps the Department intends to take to implement the plan, the timetable for implementation of the steps, and the amount of revenue the Department expects to generate. Subsequent reports shall describe the Department's progress in implementing the plan, the number of newly authorized positions that have been filled, and the amount and source of revenue generated from implementation. The Department shall submit the initial report August 1, 2004. Subsequent reports shall be submitted every three months starting November 1, 2004, until the end of the plan. The Department shall not distribute revenue generated by the Fuel Tax Action Plan until the revenue has been included in a report submitted under this section.

LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUNDS SOLVENCY

SECTION 30.10.(a) Notwithstanding G.S. 105-449.125, the Secretary of Revenue shall allocate the amount of revenue collected under Article 36C of Chapter 105 from an excise tax of one and one-tenth cent (1.1¢) a gallon to the following funds and accounts in the fraction indicated:

<u>Fund or Account</u>	<u>Amount</u>
Commercial Leaking Petroleum	
Underground Storage Tank Cleanup Fund	Five sevenths
Noncommercial Leaking Petroleum	

Underground Storage Tank Cleanup Fund	One seventh
Water and Air Quality Account	One seventh.

The Secretary of Revenue shall allocate seventy-five percent (75%) of the remaining excise tax revenue collected under Article 36C of Chapter 105 to the Highway Fund and shall allocate twenty-five percent (25%) to the Highway Trust Fund.

The Secretary of Revenue shall charge a proportionate share of a refund allowed under this Article to each fund or account to which revenue collected under this Article is credited. The Secretary of Revenue shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis except that the Secretary of Revenue shall credit nineteen million dollars (\$19,000,000) to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund, the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund, and the Water and Air Quality Account in September 2004 in the fractional amounts required by this section. The Secretary of Revenue shall credit the difference between nineteen million dollars (\$19,000,000) and the amount calculated for September as allocated to those Funds to the Highway Fund and the Highway Trust Fund, in the amounts allocated to the Highway Fund and the Highway Trust Fund under this section, over the remaining months of fiscal year 2004-2005 such that the fractional distributions required by this section are met for the fiscal year.

SECTION 30.10.(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 fifty-two thousand dollars (\$52,000) for the 2004-2005 fiscal year to establish and support an Accounting Tech IV position to expedite the processing of claims under G.S. 143-215.94E. There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources up to seventy-six thousand dollars (\$76,000) for the 2004-2005 fiscal year as needed to cover the cost of any legislative salary increase for personnel who administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes. It is the intent of the General Assembly that funds appropriated under this section are recurring funds and that these funds are in addition to funds appropriated under subsection 11.4(b) of S. L. 2003-284.

SECTION 30.10.(c) Subsection 11.4(e) of S.L. 2003-284 reads as rewritten:

"**SECTION 11.4.(e)** It is the intent of the General Assembly that the funds under subsection ~~(e)~~(d) of this section are recurring funds."

SECTION 30.10.(d) G.S. 143-215.94E(e2) reads as rewritten:

"(e2) (1) The ~~Commission~~Department may require an owner, operator, or landowner to obtain approval from the Department before proceeding with any task that will result in a cost that is eligible to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1). The ~~Commission~~Department shall specify ~~by rule~~ those tasks for which preapproval is required. The Department shall deny any request for payment or reimbursement of the cost of any task for which preapproval is required if the owner, operator, or landowner failed to obtain preapproval of the task. The Department shall pay or reimburse the cost of a task ~~for which preapproval is not required~~ only if the cost is eligible to be paid under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1) and if the Department

determines that the cost is reasonable and necessary. The Commission ~~shall~~ may adopt rules governing reimbursement of ~~necessary and~~ reasonable and necessary costs and, consistent with any rules adopted by the Commission, the Department shall develop, implement, and periodically revise a schedule of costs that the Department determines to be reasonable and necessary costs for specific tasks. Statements that specify tasks for which preapproval is required and schedules of reasonable and necessary costs for specific tasks are statements within the meaning of G.S. 150B-2(8a)g. In all cases, the Department shall require an owner, operator, or landowner to submit documentation sufficient to establish that a cost is eligible to be paid or reimbursed under this Part before the Department pays or reimburses the cost.

- (2) Except as provided in subdivisions (3) and (4) of this subsection, the Department shall not preapprove any task the cost of which is to be paid or reimbursed from the Commercial Fund unless the Department determines, based on the scope of the work to be performed and the schedule of reasonable and necessary costs, that sufficient funds will be available in the Commercial Fund to pay a claim for payment or reimbursement of the cost of that task within 90 days after the Department determines that the owner, operator, or landowner has submitted a claim with documentation sufficient to establish that the owner, operator, or landowner is eligible to have the claim paid under this Part. Except as provided in subdivisions (3) and (4) of this subsection, the Department shall not preapprove any task the cost of which is to be paid or reimbursed from the Noncommercial Fund unless the Department determines, based on the scope of the work to be performed and the schedule of reasonable and necessary costs, that sufficient funds will be available in the Noncommercial Fund to pay a claim for payment or reimbursement of the cost of that task within 90 days after the Department determines that the owner, operator, or landowner has submitted a claim with documentation sufficient to establish that the owner, operator, or landowner is eligible to have the claim paid under this Part. This subsection shall not be construed to establish a cause of action against the Commission or the Department for any failure to pay or reimburse any cost within any specific period of time. This subsection shall not be construed to establish a defense to any action to enforce the requirements of either G.S. 143-215.84 or subsection (a) of this section. This subsection shall not be construed to invalidate any rule of the Commission related to preapproval of tasks that will result in a cost that is eligible to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1), provided, however, that the Department may specify additional tasks for which preapproval is required as provided in this subsection.
- (3) The Department may preapprove a task the cost of which is to be paid or reimbursed from the Commercial Fund or the Noncommercial Fund when sufficient funds will not be available to pay a claim for payment or reimbursement of the cost of that task within the 90-day period described in subdivision (2) of this subsection if the owner, operator,

or landowner specifically requests that the task be preapproved and agrees that the claim for payment or reimbursement of the cost will not be paid until after the Department has paid all claims for payment or reimbursement of costs for tasks that the Department has preapproved pursuant to subdivision (2) of this subsection.

- (4) The Department may preapprove a task the cost of which is to be paid or reimbursed from the Commercial Fund or the Noncommercial Fund when sufficient funds will not be available to pay a claim for payment or reimbursement of the cost of that task within the 90-day period described in subdivision (2) of this subsection if the discharge or release creates an emergency situation. An emergency situation exists when a discharge or release of petroleum results in an imminent threat to human health or the environment. A claim for payment or reimbursement of costs for tasks that are preapproved under this subdivision shall be paid or reimbursed on the same basis as tasks that are preapproved under subdivision (2) of this subsection."

SECTION 30.10.(e) Section 10 of S.L. 2003-352 reads as rewritten:

"**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, an operator, or a landowner to whom either G.S. 143-215.94E(b1) ~~applies~~ or G.S. 143-215.94E(c1) apply who is eligible to have costs paid or reimbursed under G.S. 143-215.94B or G.S. 143-215.94D 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 that is based on the degree of risk to human health and the environment posed by the discharge or release. ~~release and that gives priority to the assessment and cleanup of discharges and releases that pose the greatest risk.~~ 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 shall establish the degree of risk to human health and the environment posed by a discharge or release of petroleum from a noncommercial underground storage tank and shall determine a schedule for further assessment and cleanup that is based on the degree of risk to human health and the environment posed by the discharge or release and that gives priority to the assessment and cleanup of discharges and releases that pose the greatest risk. If any of the costs of assessment or cleanup of the discharge or release from a noncommercial underground storage tank are eligible to be paid from the Noncommercial Fund, the Department shall also consider the availability of funds in the Noncommercial Fund and the order in which the discharge or release was reported in determining the schedule. The Department may revise the ~~schedule that applies~~ schedules that apply 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 or the Noncommercial 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 or a noncommercial 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 or the Noncommercial 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 30.10.(f) The Environmental Review Commission and the Joint Legislative Transportation Oversight Committee shall jointly study the desirability and feasibility of altering or eliminating the role of the State of North Carolina and the Department of Environment and Natural Resources in the implementation of Part 2A of Article 21A of Chapter 143 of the General Statutes. In conducting this study, the Commission shall consider:

- (1) The requirements of applicable federal law.
- (2) What role the State should play in assisting owners and operators of underground storage tanks in meeting applicable financial responsibility requirements and the availability and adequacy of private insurance for that purpose.
- (3) The adequacy of current and projected revenue available to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund under existing law to achieve the purposes for which those funds were established.
- (4) The desirability and feasibility of privatizing the administration of Part 2A of Article 21A of Chapter 143 of the General Statutes by transferring control and direction of the Commercial Fund and the Noncommercial Fund to a private entity or, in the alternative, of abolishing or narrowing the purposes for which those funds are used.
- (5) What role the State should play in the cleanup of discharges and releases from petroleum underground storage tanks when no owner or operator can be identified or located or when the owner or operator fails to proceed with assessment or cleanup due to insolvency, inadequate resources, or other reasons.
- (6) The extent to which current regulatory oversight and inspection of underground storage tanks, including enforcement, under Part 2B of Article 21A of Chapter 143 of the General Statutes is adequate and effective in preventing discharges and releases of petroleum from underground storage tanks.

- (7) The impact of privatization and of any other options identified during the course of the study on the solvency of the Commercial Fund and the Noncommercial Fund.
- (8) The impact of privatization and of any other options identified during the course of the study, including abolishing the Commercial Fund or the Noncommercial Fund or narrowing the purposes for which those funds are used, on the cleanup of discharges and releases of petroleum to standards established by federal or State law, the long-term public health and safety, and protection of the environment.

SECTION 30.10.(g) The Environmental Review Commission and the Joint Legislative Transportation Oversight Committee shall report their findings and recommendations as to the matters to be studied pursuant to subsection (f) of this section, including any legislative proposals, to the 2005 General Assembly no later than 31 January 2005.

SECTION 30.10.(h) Subsection (a) of this section becomes effective 1 July 2004 and expires on 30 June 2005. Subsection (b) of this section becomes effective 1 July 2004. Subsection (c) of this section is effective retroactively to 1 July 2003. Subsections (d) and (e) of this section become effective 1 October 2004. Subsections (f) through (h) of this section are effective when this act becomes law.

STATE DREDGE STUDY BY JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE

SECTION 30.12. The Joint Legislative Transportation Oversight Committee shall study the feasibility and cost of constructing and establishing a dredge to be used to clear channels that are within the State and that are not maintained by the Corps of Engineers and to be used for beach renourishment. The Joint Legislative Transportation Oversight Committee may hire an outside consultant in conducting this study.

JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY TRANSPORTATION RELATED DRUG AND ALCOHOL TESTS

SECTION 30.13. The Joint Legislative Transportation Oversight Committee shall study the advisability of instituting a requirement for public transit operators and other employers to report to the Division of Motor Vehicles the name of an employee taking a transportation-related drug test or alcohol test and the results when the employee failed the test. The Committee shall also study the advisability of instituting a requirement for the Division to provide the information it collects on those individuals to other employers required by federal law to test transportation-related employees.

DEPARTMENT OF TRANSPORTATION PROJECT DELIVERY STUDY IMPLEMENTATION

SECTION 30.14. The Department of Transportation shall review and implement the applicable provisions of the Joint Legislative Transportation Oversight Committee Highway Construction Project Delivery Study, dated June 2004. The Department shall report quarterly to the Joint Legislative Transportation Oversight Committee, beginning October 15, 2004, and continuing until October 15, 2006, on the progress of its implementation of the recommendations of the report.

POTTERY HIGHWAY SIGNS

SECTION 30.15. The Department of Transportation may not prohibit off-premises signs located on private property for potteries on the Pottery Highway (N.C. 705) in Moore and Randolph Counties.

NO MEDIAN ON PART OF U.S. HIGHWAY 64 IN RANDOLPH COUNTY

SECTION 30.16. The Board of Transportation shall not approve contracts for the construction of a median, and the Department of Transportation shall not build a median on U.S. Highway 64 between Third Street in Asheboro and the intersection of U.S. Highway 64 and N.C. 42.

TOWN OF CORNELIUS MEDIAN CUTS

SECTION 30.17. The Department of Transportation shall construct six median cuts on Catawba Avenue in the Town of Cornelius at locations to be designated by the Town.

STATE INFRASTRUCTURE BANK

SECTION 30.18. In making loans from the State Infrastructure Bank with funds appropriated in this act, the Department of Transportation shall collect repayments by reducing funds allocated to the borrowers under G.S. 136-41.1.

URBAN LOOPS

SECTION 30.19. 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 <u>including 6-laning of the portion from Johnston Road/US 521 south to I-77 south of Charlotte-including widening, resurface, and interchange</u>	Mecklenburg
Durham Northern Loop	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	Durham, Wake

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) Northern Durham Parkway, Section C, from Old Oxford Rd. to Roxboro Rd. (7) Roxboro Rd. from Duke St. to Goodwin Rd.

Fayetteville
Western Outer Loop

Multilane facility on new location from US 401 north of Fayetteville to I-95 south of Hope Mills

Cumberland

Gastonia Loop

Multilane facility, known as the Garden Parkway, on a new location beginning at I-485, extending west across southern Gaston County to I-85, and continuing north to US 321

Gaston, Mecklenburg

Greensboro Loop

Multilane facility on new location encircling City of Greensboro including interchanges with Cone Boulevard Extension and Lewis-Fleming Road Extension

Guilford

Greenville Loop

Multilane extension of the

Pitt

Raleigh Outer Loop	<p>Greenville Loop from US 264 west of Greenville to NC-11 south of Winterville</p> <p>Multilane facility on new location from NC 55 southwest of Cary northerly to US 64 in eastern Wake County <u>encircling City of Raleigh</u></p>	Wake <u>Wake, Durham, Johnston</u>
Wilmington Bypass	<p>Multilane facility on new location from US-17 northeast of Wilmington to US 421 in southern Wilmington, <u>continuing from US 421 in southern Wilmington northeast along Independence Blvd., and extending to Martin Luther King, Jr. Parkway, and including the Blue Clay Road interchange</u></p>	New Hanover
Winston-Salem Northbelt	<p>Multilane facility on new location from I-40 west of Winston-Salem northerly to US 311/Future I-74 in eastern Forsyth County"</p>	Forsyth

STORMWATER PILOT PROJECT

SECTION 30.20. Of funds available to the Department of Transportation, up to fifteen million dollars (\$15,000,000) shall be used during the 2004-2005 fiscal year for a stormwater pilot project to clean up State-maintained ocean outfalls and associated outlets through new and innovative technologies and filtering mechanisms.

INTRASTATE IMPROVEMENT PROJECTS

SECTION 30.21.(a) G.S. 136-175 reads as rewritten:

"§ 136-175. Definitions.

The following definitions apply in this Article:

- (1) Intrastate System. The network of major, multilane arterial highways composed of those ~~projects—routes, segments, or corridors listed in G.S. 136-179, 136-178, I-240, I-277, US 29 from I-85 to the Virginia line,~~ and any other route added by the Department of Transportation under G.S. 136-178.
- (2) Transportation Improvement Program. The schedule of major transportation improvement projects required by G.S. 143B-350(f)(4).
- (3) Trust Fund. The North Carolina Highway Trust Fund."

SECTION 30.21.(b) 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 percent (4%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this 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 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~~ on segments or corridors of the Intrastate System as described in G.S. ~~136-179~~ 136-178 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."

SECTION 30.21.(c) G.S. 136-178 reads as rewritten:

"§ 136-178. Purpose and description of Intrastate System.

(a) The Intrastate System is established to provide high-speed, safe travel service throughout the State. It connects major population centers both inside and outside the State and provides safe, convenient, through-travel for motorists. It is designed to support statewide growth and development objectives and to connect to major highways of adjoining states. All segments of the routes in the Intrastate System shall have at least four travel lanes ~~and, when~~ except those for which projected traffic volumes and environmental considerations dictate fewer lanes. When warranted, segments of the Intrastate System shall have vertical separation or interchanges at crossings, more than four travel lanes, or bypasses. Access to a route in the Intrastate System is determined by travel service and economic considerations.

Funds allocated from the Trust Fund for the Intrastate System are primarily intended to be used to complete the projects listed in G.S. 136-179. If Intrastate Trust Funds

assigned to a distribution region through the provisions of G.S. 136-17.2A cannot be used for projects listed in G.S. 136-179, then they may be used for projects on the following route segments or corridors:

- I-26 from Tennessee to South Carolina.
- I-40 from Tennessee to US 17 in New Hanover County.
- I-73 from South Carolina to Virginia.
- I-74 from South Carolina to Virginia.
- I-77 from South Carolina to Virginia.
- I-85 from South Carolina to Virginia.
- I-95 from South Carolina to Virginia.
- I-240 in Buncombe County.
- I-277 in Mecklenburg County.
- I-440 in Wake County.
- US 1 from South Carolina to I-85 in Vance County.
- US 13 from US 17 in Bertie County to Virginia.
- US 17 from South Carolina to Virginia.
- US 19/19E from I-26 in Madison County to NC 194 in Avery County.
- US 23/441 from Georgia to US 74 in Jackson County.
- US 29 from I-40 in Guilford County to Virginia.
- US 52 from I-74 in Surry County to I-85 in Davidson County.
- US 64 from US 52 in Davidson County to US 158 in Dare County.
- US 70 from I-40 in Wake County to NC 24 in Carteret County.
- US 74 from Tennessee to US 17 in Brunswick County, including Independence Boulevard from I-277 to I-485 in Mecklenburg County.
- US 158 from US 52 in Forsyth County to I-85 in Granville County, and from I-85 in Warren County to US 64 in Dare County.
- US 221 from South Carolina to NC 105 in Avery County.
- US 264 from US 64 in Wake County to US 17 in Beaufort County.
- US 321 from South Carolina to Tennessee.
- US 421 from US 321 west of Boone in Watauga County to I-40 in Forsyth County, and from I-85 in Guilford County to NC 87 in Lee County.
- NC 24 from I-77 in Mecklenburg County to US 70 in Carteret County.
- NC 87 from US 421 in Lee County to US 74/76 in Columbus County.
- NC 105 from US 221 in Avery County to US 321 in Watauga County.
- NC 168 from US 158 in Currituck County to Virginia.
- NC 194 from US 19E to US 221 in Avery County.
- New route from US 158 to NC 12, including a new toll bridge over the Currituck Sound in Currituck County.

Interstate routes or corridors designated by Congress or officially accepted onto the Interstate System by the United States Department of Transportation.

Any portion of an urban loop project, as described in G.S. 136-180, that has been certified by the Department as complete and is no longer eligible for funding from the urban loop allocation specified in G.S. 136-176(b)(2).

The Department of Transportation may add a route to the Intrastate System if the route is a multilane route and has been designed and built to meet the construction criteria of the Intrastate System projects. No funds may be expended from the Trust Fund on routes added by the Department.

(b) Before encumbering or spending any funds on projects added to the Intrastate System by this section, in addition to those projects required to receive first priority

pursuant to G.S. 136-179, the Department shall submit a report to the legislators representing the counties in which the priority projects that have not been completed are located on the current status of the project, the projected date for completion of the project, and the reasons for the delay in completing the project."

SECTION 30.21.(d) 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~~
In the allocation of funds as specified in G.S. 136-176(b)(1), first priority shall be given to the following projects ~~of~~ on 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
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	Edgecombe, Pitt, Martin, Washington,

	(including freeway construction from I-95 to US-17)	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 (<u>including Shelby Bypass</u>)	Polk, Rutherford <u>Rutherford</u> , <u>Cleveland</u>
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 <u>toll</u> 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 <u>Tennessee Line</u> to South Carolina Line	<u>Avery, Caldwell, Catawba, Lincoln, Gaston, Watauga</u>
US-421	Complete 4-laning from Tennessee Line <u>US 321 west of Boone</u> 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"

SECTION 30.21.(e) 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 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 30.21.(f) G.S. 136-185 reads as rewritten:

"§ 136-185. Maintenance reserve created in certain circumstances.

If the Highway Trust Fund has not terminated but all contracts for the projects of the Intrastate System described in G.S. 136-179 have been let and the amount collected and allocated for the Intrastate System is enough to pay the contracts and retire any bonds issued under the State Highway Bond Act of 1996 for projects of the Intrastate System, all subsequent allocations of revenue for the Intrastate System shall be credited to a

reserve account within the Trust Fund. Revenue in this reserve may be used only to maintain the projects of the Intrastate System.

If the Highway Trust Fund has not terminated but all contracts for the urban loops described in G.S. 136-180 have been let and the amount collected and allocated for the urban loops is enough to pay the contracts and retire any bonds issued under the State Highway Bond Act of 1996 for the urban loops, then all urban loops shall be considered a part of the Intrastate System, and all subsequent allocations of revenue for the urban loops shall be credited to a reserve the Intrastate account within the Trust Fund. Revenue in this reserve may be used only to maintain the urban loops."

GTP FUND REPAYMENT AND RESTRICTIONS

SECTION 30.22.(a) From funds borrowed from the Escheat Fund pursuant to G.S. 63A-4(a)(22) and G.S. 147-69.2(b)(11), the North Carolina Global TransPark Authority shall make a payment of two million five hundred thousand dollars (\$2,500,000) to the Escheat Fund as soon as feasible after the effective date of this section and shall not expend or obligate any other funds that were borrowed from the Escheat Fund except after consultation with the Joint Legislative Commission on Governmental Operations on its intent to expend or obligate the funds.

SECTION 30.22.(b) G.S. 147-69.2(b)(11) reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

...

- (11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than ~~September 1, 2004.~~ July 1, 2005. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss."

SECTION 30.22.(c) All interest on funds borrowed from the Escheat Fund pursuant to G.S. 63A-4(a)(22) and G.S. 147-69.2(b)(11) and on account with the State Treasurer for the benefit of the North Carolina Global TransPark Authority may only be used to repay the loan.

PART XXXI. SALARIES AND EMPLOYEE BENEFITS

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 31.1.(a) Section 30.1(a) of S.L. 2003-284 reads as rewritten:

"**SECTION 30.1.(a)** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the salary of the Governor shall remain the amount set by G.S. 147-11(a)."

SECTION 31.1.(b) Effective July 1, 2004, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred eighteen thousand four hundred thirty dollars (\$118,430)~~ one hundred twenty-one thousand three hundred ninety-one dollars (\$121,391) annually, payable monthly."

SECTION 31.1.(c) Section 30.1(b) of S.L. 2003-284 reads as rewritten:

"**SECTION 30.1.(b)** Effective ~~July 1, 2003,~~ July 1, 2004, the annual salaries for the members of the Council of State, payable monthly, for the ~~2003-2004 and~~ 2004-2005 fiscal ~~years-year~~ are:

Council of State	Annual Salary
Lieutenant Governor	\$ 104,523 <u>107,136</u>
Attorney General	104,523 <u>107,136</u>
Secretary of State	104,523 <u>107,136</u>
State Treasurer	104,523 <u>107,136</u>
State Auditor	104,523 <u>107,136</u>
Superintendent of Public Instruction	104,523 <u>107,136</u>
Agriculture Commissioner	104,523 <u>107,136</u>
Insurance Commissioner	104,523 <u>107,136</u>
Labor Commissioner	104,523 <u>107,136</u> "

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 31.2. Section 30.2 of S.L. 2003-284 reads as rewritten:

"**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-year~~ are:

Nonelected Department Heads	Annual Salary
Secretary of Administration	\$ 102,119 <u>104,672</u>
Secretary of Correction	102,119 <u>104,672</u>
Secretary of Crime Control and Public Safety	102,119 <u>104,672</u>
Secretary of Cultural Resources	102,119 <u>104,672</u>
Secretary of Commerce	102,119 <u>104,672</u>
Secretary of Environment and Natural Resources	102,119 <u>104,672</u>
Secretary of Health and Human Services	102,119 <u>104,672</u>
Secretary of Juvenile Justice and Delinquency Prevention	102,119 <u>104,672</u>
Secretary of Revenue	102,119 <u>104,672</u>
Secretary of Transportation	102,119 <u>104,672</u> "

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 31.3. Section 30.3 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.3.** The annual salaries, payable monthly, for the ~~2003-2004 and~~ 2004-2005 fiscal ~~years-year~~ for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	\$ 92,946 <u>\$95,270</u>
State Controller	130,078 <u>133,330</u>
Commissioner of Motor Vehicles	92,946 <u>95,270</u>
Commissioner of Banks	104,523 <u>107,136</u>
Chairman, Employment Security Commission	129,913 <u>133,161</u>
State Personnel Director	102,119 <u>104,672</u>
Chairman, Parole Commission	84,871 <u>86,993</u>
Members of the Parole Commission	78,356 <u>80,315</u>
Chairman, Utilities Commission	116,405 <u>119,315</u>

Members of the Utilities Commission	104,523	<u>107,136</u>
Executive Director, Agency for Public Telecommunications	78,356	<u>80,315</u>
Director, Museum of Art	95,240	<u>97,621</u>
Executive Director, North Carolina Agricultural Finance Authority	90,470	<u>92,732</u>
State Chief Information Officer	130,000	<u>133,250</u>

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 31.4. Section 30.4 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the ~~2003-2004 and 2004-2005~~ fiscal years year are:

Judicial Branch Officials	Annual Salary	
Chief Justice, Supreme Court	\$118,430	<u>\$121,391</u>
Associate Justice, Supreme Court	115,336	<u>118,219</u>
Chief Judge, Court of Appeals	112,452	<u>115,263</u>
Judge, Court of Appeals	110,530	<u>113,293</u>
Judge, Senior Regular Resident Superior Court	107,527	<u>110,215</u>
Judge, Superior Court	104,523	<u>107,136</u>
Chief Judge, District Court	94,912	<u>97,285</u>
Judge, District Court	91,909	<u>94,207</u>
Administrative Officer of the Courts	107,527	<u>110,215</u>
Assistant Administrative Officer of the Courts	98,216	<u>100,671</u>

"**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 annual salaries of assistant district attorneys or assistant public defenders in that district do not exceed ~~sixty thousand one hundred ninety one dollars (\$60,191)~~, sixty-one thousand six hundred ninety-six dollars (\$61,696), and the minimum annual salary of any assistant district attorney or assistant public defender is at least ~~thirty one thousand thirty five dollars (\$31,035)~~, thirty-two thousand thirty-five dollars (\$32,035), effective ~~July 1, 2003~~ July 1, 2004.

"**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. Effective July 1, 2004, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this Part shall be increased by the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%).

"**SECTION 30.4.(d)** The annual salaries in effect for fiscal year 2004-2005 for all permanent part-time employees of the Judicial Department shall be increased on or after July 1, 2004, by pro rata amounts of one thousand dollars (\$1,000) or by two and one-half percent (2.5%), whichever is greater."

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 31.5.(a) Section 30.5 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.5.** For the ~~2003-2004 and 2004-2005~~ fiscal years, fiscal year, the compensation of clerks of superior court shall remain as set forth in G.S. 7A-101(a)."

SECTION 31.5.(b) Effective July 1, 2004, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	\$69,911 <u>\$71,659</u>
100,000 to 149,999	78,452 <u>80,413</u>
150,000 to 249,999	86,994 <u>89,169</u>
250,000 and above	95,537 <u>97,925</u>

The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES

SECTION 31.6.(a) Section 30.6 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.6.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, 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."

SECTION 31.6.(b) Effective July 1, 2004, G.S. 7A-102(c1) reads as rewritten:

"(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 <u>\$27,515</u>
Maximum	46,464 <u>47,626</u>
Deputy Clerks	Annual Salary
Minimum	\$22,565 <u>\$23,565</u>
Maximum	35,934 <u>36,934</u> ."

MAGISTRATES' SALARY INCREASES

SECTION 31.7.(a) Section 30.7 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.7.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, 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."

SECTION 31.7.(b) Effective July 1, 2004, G.S. 7A-171.1 reads as rewritten:

"§ 7A-171.1. Duty hours, salary, and travel expenses within county.

(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

- (1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	\$26,889 <u>\$27,889</u>
Step 1	29,525 <u>30,525</u>
Step 2	32,393 <u>33,393</u>
Step 3	35,523 <u>36,523</u>
Step 4	38,952 <u>39,952</u>
Step 5	42,721 <u>43,789</u>
Step 6	46,864 <u>48,036</u>

- (2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.
- (3) Notwithstanding any other provision of this subsection, ~~an individual who, when initially appointed as a full-time magistrate, a magistrate who~~ is licensed to practice law in North ~~Carolina, Carolina~~ or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. ~~This magistrate's salary shall increase to the next step every four years on the anniversary of~~

~~the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.~~

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

- (1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$21,325 <u>\$22,325</u>
1 or more but less than 3 years of service	22,389 <u>23,389</u>
3 or more but less than 5 years of service	24,530 <u>25,530</u>

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

- (2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

- (3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).
- (4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

GENERAL ASSEMBLY PRINCIPAL CLERKS

SECTION 31.8.(a) Section 30.8 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.8.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, 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."

SECTION 31.8.(b) Effective July 1, 2004, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~eighty eight thousand three hundred six dollars (\$88,306)~~ ninety thousand five hundred fourteen dollars (\$90,514) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

SERGEANT-AT-ARMS AND READING CLERKS

SECTION 31.9.(a) Section 30.9 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.9.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the compensation of General Assembly sergeant-at-arms and reading clerks shall remain as set forth in G.S. 120-37."

SECTION 31.9.(b) Effective July 1, 2004, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred ninety-two dollars (\$292.00)~~ three hundred eleven dollars (\$311.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

LEGISLATIVE EMPLOYEES

SECTION 31.10. Effective July 1, 2004, the Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2003-2004 by the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%). Nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGE PERSONNEL

SECTION 31.11. 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 2004-2005 funds necessary to provide an annual salary increase of the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%), including funds for the employer's retirement and social security contributions, commencing July 1, 2004, for all permanent full-time community college institutional personnel supported by State funds.

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION

SECTION 31.12.(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 2004-2005, to provide an annual salary increase of the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%), including funds for the employer's retirement and social security contributions, commencing July 1, 2004, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). The percentage annual salary increase of two and one-half percent (2.5%) authorized by this section shall be made on an aggregated average basis, and these funds shall be allocated to individuals according to the rules adopted by the Board of Governors or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and employer contributions as provided by this section.

For any EPA employee whose salary is subject to the aggregate average percentage increase of two and one-half percent (2.5%) under this section because a one thousand dollar (\$1,000) increase would be less than the two and one-half percent (2.5%) annual salary increase for that employee, the Board of Governors and the Board of Trustees of the North Carolina School of Science and Mathematics are strongly encouraged to give each affected employee a minimum of a one thousand dollar (\$1,000) annual salary increase.

SECTION 31.12.(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 year 2004-2005, to provide an average annual salary increase of two and one-half percent (2.5%), 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).

SECTION 31.12.(c) Section 30.12(b) of S.L. 2003-284 reads as rewritten:

"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—year~~ 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."

MOST STATE EMPLOYEES

SECTION 31.13. Section 30.13 of S.L. 2003-284 reads as rewritten:

"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,~~ fiscal year, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. Effective July 1, 2004, the annual salaries 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 be increased by the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%), unless otherwise provided by this act.

"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. Effective July 1, 2004, the annual 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 be increased by the greater of one thousand dollars (\$1,000) or two and one-half percent (2.5%), unless otherwise provided by this act.

"SECTION 30.13.(c) ~~The~~ For the 2003-2004 fiscal year, 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. The salaries in effect for fiscal year 2004-2005 for all permanent part-time State employees shall be increased on or after July 1, 2004, by pro rata amounts of one thousand dollars (\$1,000) or two and one-half percent (2.5%), whichever is greater.

"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.

"SECTION 30.13.(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the greater of the one thousand dollar (\$1,000) or two and one-half percent (2.5%) increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2004."

ALL STATE-SUPPORTED PERSONNEL

SECTION 31.14. Section 30.14 of S.L. 2003-284 reads as rewritten:

"**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.(a1) Effective July 1, 2004, 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 be increased 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. The salary increases provided by this Part are to be effective July 1, 2004, and do not apply to persons separated from State service due to resignation, dismissal, reduction-in-force, death, or retirement, whose last workday is prior to July 1, 2004. 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 and fiscal year 2004-2005 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.

"SECTION 30.14.(f) Permanent full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the one thousand dollars (\$1,000) or two and one-half percent (2.5%) annual increase provided by this act, whichever is greater."

HOUSING FINANCE DIRECTOR

SECTION 31.15.(a) G.S. 122A-4(f) reads as rewritten:

"(f) The Governor shall designate from among the members of the Board a chairman and a vice-chairman. The terms of the chairman and vice-chairman shall extend to the earlier of either two years or the date of expiration of their then current terms as members of the Board of Directors of the Agency. The Agency shall exercise all of its prescribed statutory powers independently of any principal State Department except as described in this Chapter. The Executive Director of the Agency shall be appointed by the Board of Directors, subject to approval by the Governor. All staff and employees of the Agency shall be appointed by the Executive Director, subject to approval by the Board of Directors; shall be eligible for participation in the State Employees' Retirement System; and shall be exempt from the provisions of the State Personnel Act. All employees other than the Executive Director shall be compensated in accordance with the salary schedules adopted pursuant to the State Personnel Act. The salary of the Executive Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act.~~ Board of Directors. The salary of the Executive Director and all staff and employees of the Agency shall not be subject to any limitations imposed pursuant to any salary schedule adopted pursuant to the terms of the

State Personnel Act. The Board of Directors shall, subject to the approval of the Governor, elect and prescribe the duties of any other officers it finds necessary or advisable, and the ~~General Assembly~~ Board of Directors shall fix the compensation of these ~~officers in the Current Operations Appropriations Act.~~ officers. The books and records of the Agency shall be maintained by the Agency and shall be subject to periodic review and audit by the State.

No part of the revenues or assets of the Agency shall inure to the benefit of or be distributable to its members or officers or other private persons. The members of the Agency shall receive no compensation for their services but shall be entitled to receive, from funds of the Agency, for attendance at meetings of the Agency or any committee thereof and for other services for the Agency reimbursement for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

The Executive Director shall administer, manage and direct the affairs and business of the Agency, subject to the policies, control and direction of the members of the Agency Board of Directors. The Secretary of the Agency shall keep a record of the proceedings of the Agency and shall be custodian of all books, documents and papers filed with the Agency, the minute book or journal of the Agency and its official seal. The Secretary may have copies made of all minutes and other records and documents of the Agency and may give certificates under the official seal of the Agency to the effect that such copies are true copies, and all persons dealing with the Agency may rely upon such certificates. Seven members of the Board of Directors of the Agency shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the Board of Directors duly called and held shall be necessary for any action taken by the Board of Directors of the Agency, except adjournment; provided, however, that the Board of Directors may appoint an executive committee to act in behalf of said Board during the period between regular meetings of said Board, and said committee shall have full power to act upon the vote of a majority of its members. No vacancy in the membership of the Agency shall impair the rights of a quorum to exercise all the rights and to perform all the duties of the Agency."

SECTION 31.15.(b) The salary of the Executive Director of the North Carolina Housing Finance Agency, as fixed by the General Assembly in Section 30.3 of S.L. 2003-284, shall remain in effect until the Board of Directors fixes the Director's compensation as authorized by this act.

SALARY ADJUSTMENT FUND

SECTION 31.16.(a) Up to five million dollars (\$5,000,000) in any remaining appropriations in the Reserve for Compensation Increases authorized for employee salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. Funds transferred to the Salary Adjustment Fund under this act shall be used to fund agency requests for the following purposes:

- (1) Salary range revisions to provide competitive salary rates for affected job classifications in response to changes in labor market salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.
- (2) Reallocation of positions to higher-level job classifications to compensate employees for more difficult duties at competitive salary

rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

Priority funding shall be given to those salary range revisions and reallocations already approved. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of any salary adjustment funds for any State agency.

SECTION 31.16.(b) The Judicial Department is eligible for the funding authorized in subsection (a) of this section.

TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARY INCREASES

SECTION 31.16A. For the 2004-2005 fiscal year, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net 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 any legislative salary increase for employees of the Wildlife Resources Commission.

REPORT ON PROPOSED UNIFIED LEAVE POLICY

SECTION 31.16C.(a) The State Personnel Commission and the Board of Governors of The University of North Carolina shall report to the Senate and the House of Representatives Appropriations Committees by February 15, 2005, on their joint recommendation to implement a unified leave policy for all State employees subject to Article 2 of Chapter 126 of the General Statutes, or alternatively, for employees of The University of North Carolina who are subject to that Article. The report at a minimum shall address all of the following items with respect to implementing a proposed unified leave policy:

- (1) The rationale for adopting a unified leave policy separate and apart from the current traditional leave policies for State employees in agencies, departments, and universities.
- (2) The potential financial impact on the Teachers' and State Employees' Retirement System with respect to the amount of unused leave an employee may count as credit toward retirement years of service.
- (3) The portability of employee leave balances when moving from the current traditional leave systems to a unified leave system and from a unified leave system to the current traditional leave system in other State agencies and departments.
- (4) The potential implementation and future continuation costs for a unified leave system.
- (5) A comparison of leave benefits between a unified leave program and the current traditional leave programs and policies.
- (6) A detailed plan as to the implementation of recommended leave policy changes and how career employees' leave will be converted under the new plan.
- (7) Any other relevant information and statutory changes that are needed.

SECTION 31.16C.(b) No unified leave policy may be implemented without an act of the General Assembly expressly authorizing its implementation. This subsection does not apply to the University of North Carolina Health Care System, which shall continue to be governed by G.S. 116-37.

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 31.16D. Section 30.16(c) of S.L. 2003-284 reads as rewritten:

"**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%)~~ five and eight hundred fifteen thousandths percent (5.815%) – Teachers and State Employees; (ii) ~~ten and seventy-seven hundredths percent (10.77%)~~ ten and eight hundred fifteen thousandths percent (10.815%) – State Law Enforcement Officers; (iii) ~~ten and fifty-six hundredths percent (10.56%)~~ ten and four hundred eight-five thousandths percent (10.485%) – University Employees' Optional Retirement System; (iv) ~~ten and fifty-six hundredths percent (10.56%)~~ ten and four hundred eight-five thousandths percent (10.485%) – Community College Optional Retirement Program; (v) ~~fifteen and twelve hundredths percent (15.12%)~~ fifteen and seventy-nine hundredths percent (15.79%) – 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%)~~ four hundred forty-five thousandths percent (0.445%) for the Disability Income Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

RETIREMENT SYSTEM COLAS

SECTION 31.17.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(mmm) From and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2003, shall be increased by one and seven-tenths percent (1.7%) of the allowance payable on June 1, 2004, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2003, but before June 30, 2004, shall be increased by a prorated amount of one and seven-tenths percent (1.7%) 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, 2003, and June 30, 2004."

SECTION 31.17.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(y) From and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2003, shall be increased by one and seven-tenths percent (1.7%) of the allowance payable on June 1, 2004, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2003, but before June 30, 2004, shall be increased by a prorated amount of one and seven-tenths percent (1.7%) 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, 2003, and June 30, 2004."

SECTION 31.17.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(s) From and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2004, shall be increased by one and seven-tenths percent (1.7%) of the allowance payable on June 1, 2004, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2004, but before June 30, 2004, shall be increased by a prorated amount of one and seven-tenths percent (1.7%) 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, 2004, and June 30, 2004."

INCREASE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

SECTION 31.18. 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 eight dollars (\$158.00)~~ one hundred sixty-one dollars (\$161.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2003,~~ July 1, 2004, receive a pension of ~~one hundred fifty eight dollars (\$158.00)~~ one hundred sixty-one dollars (\$161.00) 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 eight dollars (\$158.00)~~ one hundred sixty-one dollars (\$161.00) 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."

RETIRED TEACHERS RETURNING TO CLASSROOM WITHOUT LOSS OF RETIREMENT BENEFITS/OPTION EXTENDED

SECTION 31.18A.(a) Subsection (d) of Section 28.24 of S.L. 1998-212, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

"(d) This section becomes effective January 1, 1999, and expires June 30, ~~2004~~. 2005."

SECTION 31.18A.(b) The introductory language of Section 67 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

"**SECTION 67.** Effective January 1, 1999, through June 30, ~~2004~~, 2005, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:"

SECTION 31.18A.(c) Subsection (b) of Section 67.1 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

"(b) This section becomes effective January 1, 1999, and expires June 30, ~~2004~~. 2005."

SECTION 31.18A.(d) Subsection (c) of Section 32.25 of S.L. 2001-424, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

"**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June 30, ~~2004~~. 2005."

SECTION 31.18A.(e) The Retirement Systems Division shall conduct an analysis of the postretirement reemployment issue, including a survey of peer State systems, cost analyses, review of relevant impacting federal regulations, and the administrative impact of various postretirement reemployment policies. The Retirement Systems Division shall develop findings and recommendations for the adoption of an efficient and fiscally sound policy on postretirement reemployment and shall report those findings and recommendations, as well as the analysis that produced them, to the General Assembly by February 1, 2005.

SECTION 31.18A.(f) In order to facilitate the success of its request for a private letter ruling from the Internal Revenue Service, as mandated by Section 28.13(d) of S.L. 2002-126, the Retirement Systems Division may modify the scope of its inquiry to the extent that a substantive ruling may be obtained and used by the General Assembly to adopt an efficient and fiscally sound policy on postretirement reemployment.

SECTION 31.18A.(g) Notwithstanding any other provision of law, effective July 1, 2004, each local school administrative unit shall pay to the Teachers' and State Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy hundredths percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid. Each local school administrative unit shall report monthly to the Retirement Systems Division on payments made pursuant to this subsection.

Notwithstanding any other provision of law, effective July 1, 2004, any portion of the payment made by a local school administrative unit to a reemployed teacher who is exempt from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution rate, that exceeds the State-supported salary level for that position shall be paid from local funds.

SECTION 31.18A.(h) This section becomes effective June 30, 2004.

STUDY MANDATORY RETIREMENT FOR JUDGES

SECTION 31.18B. The Administrative Office of the Courts shall study the mandatory retirement age for judges and recommend whether the current policy should be changed. The study should evaluate increasing or eliminating the mandatory retirement age, allowing judges who reach the mandatory age to finish out their elected or appointed terms, and any other options. The Administrative Office of the Courts shall report its findings and recommendations to the General Assembly by February 1, 2005.

CLARIFY THAT PROBATION AND PAROLE OFFICERS ARE COVERED BY THE LAW-ENFORCEMENT OFFICER'S, FIREMEN'S, RESCUE SQUAD WORKERS' AND CIVIL AIR PATROL MEMBERS' DEATH BENEFITS ACT

SECTION 31.18C.(a) G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer," "officer," or "fireman" shall mean all law-enforcement officers employed full time by the State of North Carolina or any county or municipality thereof and all full-time custodial employees and probation and parole officers of the North Carolina Department of Correction and all full-time institutional and detention employees of the Department of Juvenile Justice and Delinquency Prevention. The term "firemen" shall mean both "eligible fireman"; or "fireman" as defined in G.S. 58-86-25 and all full-time, permanent part-time and temporary employees of the North Carolina Division of Forest Resources, Department of Environment and Natural Resources, during the time they are actively engaged in fire-fighting activities; and shall mean all full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad workers, and during the time they are engaged in activities as members of the State Emergency Response Team, when the Team has been activated. The term "rescue squad worker" shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue Squads, Inc., must file a roster of those members meeting the above requirements with the State Treasurer

on or about January 1 of each year, and this roster must be certified to by the secretary of said association. In addition, the term "rescue squad worker" shall mean a member of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 1 of each year. The term "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a). The term "fireman" shall also mean county fire marshals when engaged in the performance of their county duties. The term "rescue squad worker" shall also mean county emergency services coordinators when engaged in the performance of their county duties."

SECTION 31.18C.(b) This section is effective when it becomes law and applies to persons killed in the line of duty on or after that date.

RETIREE HEALTH BENEFIT FUND

SECTION 31.20.(a) G.S. 135-7 reads as rewritten:

"§ 135-7. Management of funds.

(a) **Vested in Board of Trustees.** – The Board of Trustees shall be the trustee of the several funds created by this Chapter as provided in this section and in G.S. 135-8.

(b) **Regular Interest Allowance.** – The Board of Trustees annually shall allow regular interest on the mean amount for the preceding year in each of the funds with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds, and shall be annually credited thereto by the Board of Trustees from interest and other earnings on the moneys of the Retirement System. Any additional amount required to meet the interest on the funds of the Retirement System shall be paid from the pension accumulation fund, and any excess of earnings over such amount required shall be paid to the pension accumulation fund. Regular interest shall mean such per centum rate to be compounded annually as shall be determined by the Board of Trustees on the basis of the interest earnings of the System for the preceding year and of the probable earnings to be made, in the judgment of the Board, during the immediate future, such rate to be limited to a minimum of three per centum (3%) and a maximum of four per centum (4%), with the latter rate applicable during the first year of operation of the Retirement System.

(c) **Custodian of Funds; Disbursements; Bond of Director.** – The State Treasurer shall be the custodian of the several funds and shall invest their assets in accordance with the provisions of G.S. 147-69.2 and 147-69.3.

(d) **Deposits to Meet Disbursements.** – For the purpose of meeting disbursements for pensions, annuities and other payments there may be kept available cash, not exceeding ten per centum (10%) of the total amount in the several funds of the Retirement System, on deposit with the State Treasurer of North Carolina.

(e) **Personal Profit or Acting as Surety Prohibited.** – Except as otherwise herein provided, no trustee and no employee of the Board of Trustees shall have any direct interest in the gains or profits of any investment made by the Board of Trustees, nor as such receive any pay or emolument for his service. No trustee or employee of the Board shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the Board of Trustees; nor shall any trustee or employee of the Board of Trustees become an endorser

or surety or in any manner an obligor for moneys loaned or borrowed from the Board of Trustees.

(f) Retiree Health Benefit Fund. – The Retiree Health Benefit Fund is established as a fund in which accumulated contributions from employers and any earnings on those contributions shall be used to provide health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter. The Retiree Health Benefit Fund shall be administered in accordance with the provisions of subsection (a) of this section. Employer contributions to the Fund are irrevocable. The assets of the Fund are dedicated to providing health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter and are not subject to the claims of creditors of the employers making contributions to the Fund."

SECTION 31.20.(b) The assets contained in the Department of State Treasurer's Retirees Clearing Account (Code 19342) and the Department of State Treasurer's Reserve for Retirement Health Premiums (Code 19942) at the end of June 30, 2004, shall be deposited into the Retiree Health Benefit Fund created by this section on July 1, 2004.

EMPLOYEES OF NORTH CAROLINA SYMPHONY SOCIETY, INC., UNDER STATE HEALTH PLAN

SECTION 31.21.(a) G.S. 135-40.1(6) reads as rewritten:

"(6) Employing Unit. – A North Carolina School System; Community College; State Department, Agency or Institution; Administrative Office of the Courts; or Association or Examining Board whose employees are eligible for membership in a State-Supported Retirement System. An employing unit also shall mean a charter school in accordance with Part 6A of Chapter 115C of the General Statutes whose board of directors elects to become a participating employer in the Plan under G.S.135-40.3A. Bona fide fire departments, rescue or emergency medical service squads, and national guard units are deemed to be employing units for the purpose of providing benefits under this Article. The North Carolina Symphony Society, Inc., is deemed to be an employing unit for the purpose of providing benefits under this Article."

SECTION 31.21.(b) G.S. 135-40.2(a2) reads as rewritten:

"(a2) The following persons are eligible for coverage under the Plan on a partially contributory basis, subject to the provisions of G.S. 130-40.3.

(1) A 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-G.S. 115C-302.2(b). 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.

(2) Employees of the North Carolina Symphony Society, Inc., their eligible spouses, and eligible dependent children."

SECTION 31.21.(c) G.S. 135-39.6A(d) reads as rewritten:

"(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 active and retired teachers, State employees, and their dependents enrolled in the Plan.~~ In setting premiums for employees of the North Carolina Symphony Society, Inc., and their eligible dependents, the Executive Administrator and Board of Trustees shall establish rates separate from those affecting active teachers and State employees and their dependents enrolled in 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."

SECTION 31.21.(d) This section becomes effective July 1, 2004.

TRICARE SUPPLEMENTAL HEALTH INSURANCE

SECTION 31.24.(a) In lieu of the maximum annual employer contributions to the Teachers' and State Employees' Comprehensive Major Medical Plan authorized in Section 30.16(e) of S.L. 2003-284, employers, including the State Retirement Systems, may make contributions, payable monthly, each monthly payment not to exceed sixty-three dollars and fifty cents (\$63.50), on behalf of each covered employee or retired employee to sponsors of TRICARE Supplemental Health Insurance programs for employees or retired employees who elect to be covered by the TRICARE Military Health System's standard benefit option and who elect not to be covered by the Teachers' and State Employees' Comprehensive Major Medical Plan.

SECTION 31.24.(b) This section becomes effective January 1, 2005.

STATE HEALTH PLAN: LIABILITY OF THIRD PARTIES; RIGHT OF SUBROGATION; RIGHT OF FIRST RECOVERY

SECTION 31.25. Part 3 of Article 3 of Chapter 135 of the General Statutes is amended by adding the following new section to read:

"§ 135-40.13A. Liability of third person; right of subrogation; right of first recovery.

Whenever the Plan pays benefits for hospital, surgical, medical, or prescription drug expenses, with respect to any Plan member, the Plan shall be subrogated, to the extent of any payments under the Plan, to all of the Plan member's rights of recovery against liable third parties, regardless of the entity or individual from whom recovery may be due. The Plan member shall do nothing to prejudice these rights. The Plan has the right to first recovery on any amounts so recovered, whether by the Plan or the Plan member, and whether recovered by litigation, arbitration, mediation, settlement, or otherwise. If the Plan is precluded from exercising its right of subrogation, it may exercise its rights of recovery to the extent allowed by law. If the Plan recovers damages from a third party in excess of the claims paid, any excess will be paid to the member, less a proportionate share of the costs of collection. In the event a Plan member recovers any amounts from a third party to which the Plan is entitled under this section, the Plan may recover the amounts directly from the Plan member. The Plan has a lien, for the value of claims paid related to the liability of the third party, on any damages subsequently recovered against the liable third party. If the Plan member fails to pursue the remedy against a liable third party, the Plan is subrogated to the rights of the Plan member and is entitled to enforce liability in the Plan's own name or in the name of the Plan member for the amount paid by the Plan."

LOCAL GOVERNMENTS PROVIDED OPTIONAL COVERAGE UNDER TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN

SECTION 31.26.(a) G.S. 135-40 is amended by adding the following new subsection to read:

"(a2) The State of North Carolina deems it to be in the public interest for employees of an employer, as defined for local government employers by G.S. 128-21(11), to be given the opportunity to participate in the benefits provided by the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan. Participation shall be voluntary for local government employers."

SECTION 31.26.(b) G.S. 135-40.1(6) reads as rewritten:

"(6) Employing Unit. – A North Carolina School System; Community College; State Department, Agency or Institution; Administrative Office of the Courts; or Association or Examining Board whose employees are eligible for membership in a State-Supported Retirement System. An employing unit also shall mean a charter school in accordance with Part 6A of Chapter 115C of the General Statutes whose board of directors elects to become a participating employer in the Plan under G.S. 135-40.3A. Bona fide fire departments, rescue or emergency medical service squads, and national guard units are deemed to be employing units for the purpose of providing benefits under this Article. An employing unit shall also mean an employer, as defined for local government employers by G.S. 128-21(11), that elects to provide benefits for its employees and retired employees and that meets all of the following conditions:

- a. The local government employer, by resolution legally adopted by the employer and approved by the Executive Administrator and Board of Trustees, elects to have its employees become eligible to participate in the Plan, and to make the contributions as required by the Executive Administrator and Board of Trustees.
- b. The local government employer enrolls all of its eligible employees, retired employees, and, as applicable, their eligible family members in the Plan. Eligible employees, retired employees, and, as applicable, their eligible family members, shall participate in disease management, case management, and all other mandatory and voluntary cost containment measures implemented by the Executive Administrator and Board of Trustees.
- c. If the local government employer elects to cover its retired employees under the Plan, then:
 1. The agreement of the local government employer to make contributions on account of all of its retired employees shall be irrevocable, and should a local government employer for any reason become financially unable to make the contributions payable on account of its retired employees, then the employer shall be deemed to be in temporary default. Temporary default shall not relieve the employer from any liability for its

- contributions payable on account of its retired employees; and
2. The local government employer shall make a contribution to the Local Government Employees' Retirement System equal to the contribution required of all other employing units to the State Retirement Systems for covering their retired employees. If the local government employer does not participate in the Local Government Employees' Retirement System and has another formally established retirement plan, the local government employer shall remit to the Teachers' and State Employees' Comprehensive Major Medical Plan the amount of premium required by the Executive Administrator and Board of Trustees for coverage of retirees and their eligible family members."

SECTION 31.26.(c) G.S. 135-40.1(3) reads as rewritten:

"(3) Dependent Child. – A natural, legally adopted, or foster child of the employee and/or spouse, unmarried, up to the first of the month following his or her 19th birthday, whether or not the child is living with the employee, as long as the employee is legally responsible for such child's maintenance and support. Dependent child shall also include any child under age 19 who has reached his or her 18th birthday, provided the employee was legally responsible for such child's maintenance and support on his or her 18th birthday.

A foster child is covered (i) if living in a regular parent-child relationship with the expectation that the employee will continue to rear the child into adulthood, (ii) if at the time of enrollment, or at the time a foster child relationship is established, whichever occurs first, the employee applies for coverage for such child and submits evidence of a bona fide foster child relationship, identifying the foster child by name and setting forth all relevant aspects of the relationship, (iii) if the Claims Processor accepts the foster child as a participant through a separate written document identifying the foster child by name and specifically recognizing the foster child relationship, and (iv) if at the time a claim is incurred, the foster child relationship, as identified by the employee, continues to exist. Children placed in a home by a welfare agency which obtains control of, and provides for maintenance of, the child(ren), are not eligible participants.

Coverage may be extended beyond the 19th birthday under the following conditions:

- a. If the dependent is a full-time student, between the ages of 19 and 26, who is pursuing a course of study that represents at least the normal workload of a full-time student at a school or college accredited by the state of jurisdiction.
- b. The dependent is physically or mentally incapacitated to the extent that he or she is incapable of earning a living and (i) such handicap developed or began to develop before the dependent's 19th birthday, or (ii) such handicap developed or began to

develop before the dependent's 26th birthday if the dependent was covered by the Plan in accordance with G.S. 135-40.1(3)a.

Dependent children of firemen, rescue squad workers, and members of the national guard are subject to the same terms and conditions as are other dependent children covered by this subdivision.

Except as otherwise provided in G.S. 135-40.1(6)b., dependent children of employees of employers, as defined for local government employers in G.S. 128-21(11), are subject to the same terms and conditions as are other dependent children covered by this subdivision."

SECTION 31.26.(d) G.S. 135-40.1(7) reads as rewritten:

"(7) Enrollment. – New employees must enroll themselves and their dependents within 30 days from the date of employment or from first becoming eligible on a noncontributory basis. Coverage may become effective on the first day of the month following date of entry on payroll or on the first day of the following month. New employees not enrolling themselves and their dependents within 30 days, or not adding dependents when first eligible as provided herein may enroll on the first day of any month but will be subject to a 12-month waiting period for preexisting health conditions, except for employees who elect to change their coverage in accordance with rules established by the Executive Administrator and Board of Trustees for optional prepaid hospital and medical benefit plans. Children born to covered employees having coverage type (2), or (3), as outlined in G.S. 135-40.3(d) shall be automatically covered at the time of birth without any waiting period for preexisting health conditions. Children born to covered employees having coverage type (1) shall be automatically covered at birth without any waiting period for preexisting health conditions so long as the Claims Processor receives notification within 30 days of the date of birth that the employee desires to change from coverage (1) to coverage type (2), or (3), provided that the employee pays any additional premium required by the coverage type selected retroactive to the first day of the month in which the child was born.

Newly acquired dependents (spouse/child) enrolled within 30 days of becoming an eligible dependent will not be subject to the 12-month waiting period for preexisting conditions. A dependent can become qualified due to marriage, adoption, entering a foster child relationship, due to the divorce of a dependent child or the death of the spouse of a dependent child, and at the beginning of each legislative session (applies only to enrolled legislators). Effective date for newly acquired dependents if application was made within the 30 days can be the first day of the following month. Effective date for an adopted child can be date of adoption, or date of placement in the adoptive parent's home, or the first of the month following the date of adoption or placement. Firemen, rescue squad workers, and members of the national guard, and their eligible dependents are subject to the same terms and conditions as are new employees and their dependents

covered by this subdivision. Enrollments in these circumstances must occur within 30 days of eligibility to enroll. Except as otherwise provided in G.S. 135-40.1(6)b., employees of employers, as defined for local government employers in G.S. 128-21(11), and their eligible dependents are subject to the same terms and conditions as are new employees and their dependents covered by this subdivision. Enrollments in these circumstances must occur within 30 days of eligibility to enroll."

SECTION 31.26.(e) G.S. 135-40.1(17) reads as rewritten:

"(17) Retired Employee (Retiree). – Retired teachers, State employees, and members of the General Assembly who are receiving monthly retirement benefits from any retirement system supported in whole or in part by contributions of the State of North Carolina, so long as the retiree is enrolled. On and after January 1, 1988, a retiring employee or retiree must have completed at least five years of contributory retirement service with an employing unit prior to retirement from any State-supported retirement system in order to be eligible for group benefits under this Part as a retired employee or retiree. Retired employee also means the retired or disabled employees of an employer, as defined for local government employers in G.S. 128-21(11), that receive a monthly benefit from the Local Government Employees' Retirement System or any other formal retirement plan established by their employer."

SECTION 31.26.(f) G.S. 135-40.3 is amended by adding the following new subsection to read:

"(g) Except as otherwise provided in G.S. 135-40.1(6)b., employees of employers, as defined for local government employers in G.S. 128-21(11), are subject to the same terms and conditions of this section as are employees. Except as otherwise provided in G.S. 135-40.1(6)b., eligible dependents of employees of local government employers are subject to the same terms and conditions of this section as are dependents of employees."

SECTION 31.26.(g) G.S. 135-40.2(a) is amended by adding the following new subdivision to read:

"(9) Employees and applicable retired employees of an employer, as defined for local government employers by G.S. 128-21(11), their eligible spouses and eligible dependent children as determined by their employer."

SECTION 31.26.(h) G.S. 135-40.2(b) is amended by adding the following new subdivision to read:

"(14) Employees and applicable retired employees of an employer, as defined for local government employers by G.S. 128-21(11), their eligible spouses and eligible dependent children as determined by their employer."

SECTION 31.26.(i) G.S. 135-40.2(a2) reads as rewritten:

"(a2) The following persons are eligible for coverage under the Plan on a partially contributory basis, subject to the provisions of G.S. 130-40.3:

(1) A 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~~ G.S. 115C-302.2(b). 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.

- (2) Employees and applicable retired employees of an employer, as defined for local government employers by G.S. 128-21(11), their eligible spouses and eligible dependent children as determined by their employer."

SECTION 31.26.(j) This section applies to Bladen, Cherokee, Rutherford, Washington, and Wilkes Counties only.

SECTION 31.26.(k) This section becomes effective July 1, 2004, and expires June 30, 2006.

STATE HEALTH PLAN EXECUTIVE ADMINISTRATOR AND DEPUTY EXECUTIVE ADMINISTRATOR EXEMPT FROM STATE PERSONNEL ACT

SECTION 31.27.(a) G.S. 135-39.4A reads as rewritten:

"§ 135-39.4A. Executive Administrator.

(a) The Plan shall have an Executive ~~Administrator~~ Administrator and a Deputy Executive Administrator. The Executive Administrator and the Deputy Executive Administrator positions are exempt from the provisions of Chapter 126 of the General Statutes as provided in G.S. 126-5(c1).

(b) The Executive Administrator shall be appointed by the Commissioner of Insurance. The term of employment and salary of the Executive Administrator shall be set by the Commissioner of Insurance upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits.

The Executive Administrator may be removed from office by the Commissioner of Insurance, upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits, and any vacancy in the office of Executive Administrator may be filled by the Commissioner of Insurance with the term of employment and salary set upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits.

(c) to (e) Repealed by Session Laws 1987, c. 857, s. 5.

(f) The Executive Administrator shall appoint the Deputy Executive Administrator and may employ such clerical and professional staff, and such other assistance as may be necessary to assist the Executive Administrator and the Board of Trustees in carrying out their duties and responsibilities under this Article. The Executive Administrator may also negotiate, renegotiate and execute contracts with third parties in the performance of his duties and responsibilities under this Article; provided any contract negotiations, renegotiations and execution with a Claims Processor or with an optional prepaid hospital and medical benefit plan or with a preferred provider of institutional or professional hospital and medical care or with a pharmacy benefit manager shall be done only after consultation with the Committee on Employee Hospital and Medical Benefits.

(g) The Executive Administrator shall be responsible for:

- (1) Cost management programs;
- (2) Education and illness prevention programs;
- (3) Training programs for Health Benefit Representatives;

- (4) Membership functions;
- (5) Long-range planning;
- (6) Provider and participant relations; and
- (7) Communications.

Managed care practices used by the Executive Administrator in cost management programs are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223, 58-3-235, 58-3-240, 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

(h) The Executive Administrator shall make reports and recommendations on the Plan to the President of the Senate, the Speaker of the House of Representatives and the Committee on Employee Hospital and Medical Benefits."

SECTION 31.27.(b) G.S. 126-5(c1) is amended by adding the following new subdivision to read:

"(23) The Executive Administrator and the Deputy Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan."

RESIDENTIAL TREATMENT CENTERS/STATE HEALTH PLAN COVERAGE

SECTION 31.28. G.S. 135-40.7B(b) reads as rewritten:

"(b) Notwithstanding any other provision of this Part, the following necessary services for the care and treatment of chemical dependency and mental illness shall be covered under this section: allowable institutional and professional charges for inpatient care, outpatient care, intensive outpatient program services, partial hospitalization treatment, and residential care and treatment:

- (1) For mental illness treatment:
 - a. Licensed psychiatric hospitals;
 - b. Licensed psychiatric beds in licensed general hospitals;
 - c. Licensed residential treatment ~~facilities;~~ facilities that have 24-hour on-site care provided by a registered nurse and that hold current accreditation by a national accrediting body approved by the Plan's mental health case manager;
 - d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
 - e. Licensed intensive outpatient treatment programs; and
 - f. Licensed partial hospitalization programs.
- (2) For chemical dependency treatment:
 - a. Licensed chemical dependency units in licensed psychiatric hospitals;
 - b. Licensed chemical dependency hospitals;
 - c. Licensed chemical dependency treatment facilities;
 - d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
 - e. Licensed intensive outpatient treatment programs;
 - f. Licensed partial hospitalization programs; and
 - g. Medical detoxification facilities or units."

PART XXXII. CAPITAL APPROPRIATIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 32.1. There is appropriated from the General Fund for the 2004-2005 fiscal year the following amount for capital improvements:

Capital Improvements -General Fund	2004-2005
Department of Commerce – State Ports Authority	
Wilmington Port Replace Crane Rail	2,000,000
Radio Island Development and Improvements	2,000,000
Department of Environment and Natural Resources	
Water Resources Development Projects	26,492,000
North Carolina Museum of Art	
Expansion Planning Funds	2,200,000
University of North Carolina System	
Center for Design Innovation	2,000,000
Winston-Salem State University – Dept Life Sciences	2,000,000
UNC-Greensboro and NC A&T Millennium Campus	4,000,000
NC Motor Sports Testing and Research Complex	2,000,000
UNC-Wilmington – School of Nursing	500,000

TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND 43,192,000

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 32.2.(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:

Name of Project	2004-2005
(1) Wilmington Harbor Deepening	\$9,300,000
(2) Morehead City Harbor Maintenance	1,000,000
(3) Manteo (Shallowbag) Bay Channel Maintenance	2,000,000
(4) B. Everett Jordan Water Supply Storage	100,000
(5) John H. Kerr Reservoir Operations Evaluation	600,000
(6) Beaufort Harbor Maintenance Dredging (Carteret County)	80,000
(7) Bogue Banks Shore Protection Study (Carteret County)	129,000
(8) Surf City/North Topsail Beach Protection Study	350,000
(9) West Onslow Beach (Topsail)	117,000
(10) Swan Quarter (Hyde County) Flood Control Dikes	100,000
(11) Hurricane Isabel Emergency Stream Cleanup – NE NC	2,000,000
(12) Cape Fear River Basin Water Management Study	161,000
(13) State Local Projects	2,839,000
(14) Lower Lockwoods Folly Dredging	336,000
(15) Currituck Sound Water Management Study	210,000
(16) Aquatic Weed Control, Lake Gaston and Statewide	275,000
(17) Deep Creek (Yadkin County) Water Management	2,000,000
(18) Neuse River Basin Feasibility Study	400,000

(19)	Neuse Water and Sewer Project	3,500,000
(20)	Environmental Restoration Projects	700,000
(21)	Projected Feasibility Studies	200,000
(22)	Planning Assistance to Communities	<u>95,000</u>

TOTAL**\$26,492,000**

SECTION 32.2.(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 2004-2005 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 2004-2005.
- (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 2005-2006 fiscal year.

SECTION 32.2.(c) The Department shall make semiannual 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 semiannual 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 32.2.(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 2004-2005 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. Notwithstanding G.S. 143-16.3, if, after complying with subsections (a) and (b) of this section, the Department has funds available, then the Department may allocate funds for the following projects or any other projects: Silver Lake Harbor (Ocracoke, Hyde County), Far Creek Channel Maintenance (Engelhard, Hyde County), and Walters Slough Maintenance Dredging.

REPAIR AND RENOVATION RESERVE ALLOCATION

SECTION 32.3. Of the funds in the Reserve for Repairs and Renovations for the 2004-2005 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.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

UNIVERSITY OF NORTH CAROLINA AT WILMINGTON SCHOOL OF NURSING FACILITY PLANNING

SECTION 32.5. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina the sum of five hundred thousand dollars (\$500,000) for the 2004-2005 fiscal year shall be used for the planning and design of a facility for the University of North Carolina at Wilmington School of Nursing. These funds shall be used for advanced planning services through schematic design, siting and permitting, planning for infrastructure expansion to support building needs, and development of a detailed cost estimate to support the request for completion of design and construction funds.

PART XXXII-B. SALES TAX REFUNDS AND EXEMPTIONS

SALES TAX REFUNDS AND EXEMPTIONS

SECTION 32B.1. G.S. 105-164.14(j) reads as rewritten:

"(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)~~ the required amount of private funds to ~~acquire, construct, and equip~~ construct the facility in this State. For the

purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in an enterprise tier one, two, or three area as defined in G.S. 105-129.3, the required amount is fifty million dollars (\$50,000,000). For all other facilities, the required amount is one hundred million dollars (\$100,000,000).

- (3) Industries. – This subsection applies to the following industries:
- a. Aircraft manufacturing. Aircraft manufacturing means manufacturing or assembling complete aircraft.
 - a.b. 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.
 - d. Computer manufacturing. Computer manufacturing means manufacturing or assembling electronic computers, such as personal computers, workstations, laptops, and computer servers. The term includes the assembly or integration of processors, coprocessors, memory, storage, and input/output devices into a user-programmable final product. The term does not include manufacturing or assembling computer peripheral equipment, such as storage devices, printers, monitors, input/output devices, and terminals.
 - g. Motor vehicle manufacturing. Motor vehicle manufacturing means any of the following:
 - 1. Manufacturing complete automobiles and light-duty motor vehicles.
 - 2. Manufacturing heavy-duty truck chassis and assembling complete heavy-duty trucks, buses, heavy-duty motor homes, and other special purpose heavy-duty motor vehicles for highway use.
 - 3. Manufacturing complete military armored vehicles, nonarmored military universal carriers, combat tanks, and specialized components for combat tanks.
 - ~~b-j.~~ 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.
- m. Semiconductor manufacturing. Semiconductor manufacturing means development and production of semiconductor material, devices, or components.
- (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 32B.2. G.S. 105-164.13 reads as rewritten:

"§ 105-164.13. Retail sales and use tax.

The sale at ~~retail~~, retail and the use, storage ~~storage~~, or consumption in this State of the following tangible personal property and services ~~is~~ are specifically exempted from the tax imposed by this Article:

...

- (1) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, and seeds sold to a farmer for agricultural purposes.

...

- (45a) Sales to an interstate air business of tangible personal property that becomes a component part of or is dispensed as a lubricant into commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this subdivision, commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages.

...

- (49a) Delivery charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

...

- (53) Sales to a professional land surveyor of tangible personal property on which custom aerial survey data is stored in digital form or is depicted in graphic form. Data is custom if it was created to the specifications of the professional land surveyor purchasing the property. A professional land surveyor is a person licensed as a surveyor under Chapter 89C of the General Statutes."

SECTION 32B.3. G.S. 105-164.3 is amended by adding two new subdivisions to read:

- "(14c) Interstate air business. – An interstate air courier, an interstate freight air carrier, or an interstate passenger air carrier.

...

(15b) Interstate freight air carrier. – A person whose primary business is scheduled freight air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

SECTION 32B.4. G.S. 105-164.13(39) is reenacted and rewritten to read:

"(39) Sales of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term 'free distribution periodical' means a publication that is published on a periodic basis monthly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail."

SECTION 32B.5. The amendment to G.S. 105-164.14(j)(2) made by this part is effective on and after January 1, 2004, and applies to sales made on or after that date. Sections 32B.2 and 32B.3 of this part become effective October 1, 2004, and apply to sales made on or after that date. Section 32B.4 of this part becomes effective July 1, 2005, and applies to sales made on or after that date. The remainder of this part becomes effective July 1, 2004, and applies to sales made on or after that date. The amendments to G.S. 105-164.14(j)(3) made by this part are repealed effective for sales made on or after July 1, 2009.

PART XXXII-C. QUALIFIED BUSINESS INVESTMENT CREDIT

QUALIFIED BUSINESS INVESTMENT CREDIT

SECTION 32C.1. G.S. 105-163.012(b) reads as rewritten:

"(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for investments made in a calendar year may not exceed ~~six million dollars (\$6,000,000)~~ seven million dollars (\$7,000,000). The Secretary of Revenue shall calculate the total amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c). If the total amount of tax credits claimed for investments made in a calendar year exceeds ~~six million dollars (\$6,000,000)~~, this maximum amount, the Secretary shall allow a portion of the credits claimed by allocating ~~a total of six million dollars (\$6,000,000)~~ the maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer."

SECTION 32C.2. 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, ~~2007-2008.~~"

SECTION 32C.3. This part becomes effective for investments made on or after January 1, 2004.

PART XXXII-D. RESEARCH AND DEVELOPMENT TAX CREDIT

RESEARCH AND DEVELOPMENT TAX CREDIT

SECTION 32D.1. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) The credits allowed in this section and the credit allowed in Article 3F of this Chapter are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year."

SECTION 32D.2. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3F.

"Research and Development.

"§ 105-129.50. Definitions.

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

- (1) through (3): Reserved.
- (4) North Carolina university research expenses. – Any amount the taxpayer paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.
- (5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.
- (6) Qualified North Carolina research expenses. – Qualified research expenses, other than North Carolina university research expenses, for research performed in this State.
- (7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.
- (8) Related person. – Defined in G.S. 105-163.010.
- (9) Research university. – An institution of higher education that meets one or both of the following conditions:
 - a. It is classified as one of the following 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:
 1. Doctoral/Research Universities, Extensive or Intensive.
 2. Masters Colleges and Universities, I or II.
 3. Baccalaureate Colleges, Liberal Arts or General.
 - b. It is a constituent institution of The University of North Carolina.
- (10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars (\$1,000,000).

"§ 105-129.51. Administration; sunset.

(a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the requirements of G.S. 105-129.4(b), (b2), (b3), and (b4) relating to wage standard, health insurance, environmental impact, and safety and health programs, respectively.

(b) This Article is repealed for taxable years beginning on or after January 1, 2009.

(c) The credit allowed in this Article and the credits allowed in G.S. 105-129.10 are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year. It may elect a different credit for different expenses in a subsequent taxable year.

"§ 105-129.52. Tax election; cap.

(a) Tax Election. – The credit allowed in this Article is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4

of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the credit is first claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax.

(b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of the amount of tax against which it is claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit allowed in this Article may be carried forward for the succeeding 15 years.

"§ 105-129.53. Substantiation.

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"§ 105-129.54. Reports.

The Department of Revenue must report to the Revenue Laws Study Committee and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding December 31:

- (1) The number of taxpayers that claimed a credit allowed in this Article, itemized by the categories of small business, low-tier, other, and university research.
- (2) The amount of each credit claimed in each category.
- (3) The total cost to the General Fund of the credits claimed.

"§ 105-129.55. Credit for North Carolina research and development.

(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this subsection. Only one credit is allowed under this subsection with respect to the same expenses. If more than one subdivision of this subsection applies to the same expenses, then the credit is equal to the higher percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina research expenses qualifies under subdivision (2) of this subsection and the remainder qualifies under subdivision (3) of this subsection, the applicable percentages apply separately to each part of the expenses.

- (1) Small business. – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three percent (3%).
- (2) Low-tier research. – For expenses with respect to research performed in an enterprise tier one, two, or three area, the applicable percentage is three percent (3%).
- (3) Other research. – For expenses not covered under subdivision (1) or (2) of this subsection, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

<u>Expenses Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$50 million</u>	<u>1%</u>

<u>\$50 million</u>	<u>\$200 million</u>	<u>2%</u>
<u>\$200 million</u>	<u>—</u>	<u>3%</u>

(b) North Carolina University Research Expenses. – A taxpayer that has North Carolina university research expenses for the taxable year is allowed a credit equal to fifteen percent (15%) of the expenses."

SECTION 32D.3. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

- ...
- (30) To publish the information required under G.S. 105-129.54 and to prove that a business does not meet the definition of 'small business' under Article 3F of this Chapter because the annual receipts of the business, combined with the annual receipts of all related persons, exceeds the applicable amount."

SECTION 32D.4. G.S. 105-129.10 and G.S. 105-129.51(c) are repealed.

SECTION 32D.5. Section 32D.4 of this Part becomes effective for taxable years beginning on or after January 1, 2006. The remainder of this Part becomes effective for business activities occurring on or after May 1, 2005.

PART XXXII-F. INSURABLE INTEREST OF CHARITABLE ORGANIZATIONS

INSURABLE INTEREST OF CHARITABLE ORGANIZATIONS

SECTION 32F.1. G.S. 58-58-86 reads as rewritten:

"§ 58-58-86. **Insurable interest of charitable organizations.**

(a) If an organization described in section 501(c)(3) of the Internal Revenue Code Code, or an entity, purchases or receives by assignment, before, on, or after the effective date of this section, life insurance on an insured who consents in writing to the purchase or assignment, the organization or entity is deemed to have an insurable interest in the insured person's life.

(b) For the purposes of this section, an "entity" is any trust, business trust, partnership, corporation, limited liability company, or similar entity approved in writing by the insured as the beneficiary in, and owner of, a life insurance policy and annuity contract on the life of the insured subject to each of the following requirements:

- (1) The entity is formed for the purpose, in part, of generating funds for the benefit of one or more charitable organizations described in section 501(c)(3) of the Internal Revenue Code that are, prior to the time of the purchase, designated in writing by the consenting insured.
- (2) The payments to the entity under the annuity contracts must be reasonably anticipated to fund the premiums on the life insurance policies for the second and succeeding years.
- (3) Either (i) each benefited charitable organization described in section 501(c)(3) of the Internal Revenue Code that is designated in writing by the consenting insured provides an affidavit to the entity stating that the organization has been in existence for at least three years and has

assets of at least five million dollars (\$5,000,000) or (ii) the consenting insured provides an affidavit to the entity stating that the insured is an accredited investor as defined in Rule 501 of Regulation D under the Securities Act of 1933, as amended.

- (4) The consenting insured provides an affidavit to the entity stating that neither the consenting insured, any relative, as that term is defined in G.S. 39-23.1(11), of the consenting insured, nor any entity controlled by the consenting insured or any relative of the consenting insured other than a charitable organization described in section 501(c)(3) of the Internal Revenue Code, received any monetary remuneration or other consideration whatsoever in connection with the consenting insured's consent to purchase the combination of a life insurance policy and annuity contract.
- (5) Prior to the ownership or purchase of the combination of a life insurance policy and annuity contract on the consenting insured, each consenting insured and benefited organization described in section 501(c)(3) of the Internal Revenue Code is provided a written description of the minimum percentage or amount of the life insurance proceeds that is reasonably anticipated to be paid to the benefited charitable organization."

SECTION 32F.2. This part is effective when it becomes law and expires October 1, 2007.

PART XXXII-G. JOB DEVELOPMENT INVESTMENT GRANT PROGRAM

JOB DEVELOPMENT INVESTMENT GRANT PROGRAM

SECTION 32G.1.(a) G.S. 143B-437.62 reads as rewritten:

"§ 143B-437.62. Authority-Expiration.

The authority of the Committee to enter into new agreements ~~begins January 1, 2003, and expires January 1, 2005-2006.~~

SECTION 32G.1.(b) G.S. 143B-437.52(b) reads as rewritten:

"(b) Cap. – The maximum number of agreements the Committee may enter into each calendar year is ~~15-25.~~"

SECTION 32G.1.(c) G.S. 143B-437.52(c) reads as rewritten:

"(c) Ceiling. – The maximum amount of total annual liability for grants for agreements entered into in any single calendar year may not exceed ~~ten million dollars (\$10,000,000)-fifteen million dollars (\$15,000,000).~~ No agreement may be entered into that, when considered together with other existing agreements entered into during that calendar year, could cause the State's potential total annual liability for grants entered into in that calendar year to exceed this amount."

SECTION 32G.1.(d) G.S. 143B-437.58(a) reads as rewritten:

"(a) No later than ~~February-March~~ 1 of each year, for the preceding grant year, every business that is awarded a grant under this Part shall submit to the Committee a ~~copy of its State and federal tax returns showing business and nonbusiness income and a~~ report showing withholdings as a condition of its continuation in the grant program. In addition, the business shall submit to the Committee an annual payroll report showing the eligible positions that are created during the base years and the new eligible positions created during each subsequent year of the grant. Upon request of the Committee, the business shall also submit a copy of its State and federal tax returns.

Payroll and tax information submitted under this subsection is tax information subject to G.S. 105-259. When making a submission under this section, the business must pay the Committee a fee of one thousand five hundred dollars (\$1,500). The fee is due at the time the submission is made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited."

SECTION 32G.1.(e) G.S. 143B-437.52(d) reads as rewritten:

"(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and G.S. 143B-437.51(5), 143B-437.51(7), and 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-member of the business."

SECTION 32G.1.(f) G.S. 143B-437.57 is amended by adding a new subsection to read:

"(c) Agreement Binding. – A community economic development agreement is a binding obligation of the State and is not subject to State funds being appropriated by the General Assembly."

SECTION 32G.1.(g) G.S. 143B-437.57(a) is amended by adding a new subdivision to read:

"(a) Terms. – Each community economic development agreement shall include at least the following:

- ...
- (25) A provision encouraging the business to contract with small businesses headquartered in the State for goods and services."

SECTION 32G.1.(h) It is the intent of the General Assembly that the benefits of a robust and growing economy be shared by all citizens of the State regardless of their geographic location or whether they live in urban, suburban, or rural areas. In striving for balanced economic development throughout the State, the General Assembly has designed a system to identify areas of the State that are most in need of additional economic development and has designed economic development programs to provide for relatively stronger incentives in those areas. In keeping with this policy of balanced economic development, the General Assembly strongly encourages the Department of Commerce and the Economic Investment Committee to give priority consideration under the Job Development Investment Grant program to projects that are located or will locate in less economically developed areas.

SECTION 32G.1.(i) The Chairs of the Finance Committees of the House of Representatives and the Senate shall conduct a comprehensive, systematic study of the Job Development Investment Grant program. The General Assembly shall use funds available to conduct this study and may hire a consultant to conduct the study. The study shall be completed and submitted to the full 2005 General Assembly no later than April 1, 2005. The study shall include an examination of the following:

- (1) The costs of the program on an aggregate basis, an enterprise tier area basis, and a project basis. This study shall include an examination of the amount spent per job on an aggregate basis, an enterprise tier area basis, and a project basis.
- (2) The costs of the program in relation to other State economic development incentive programs.
- (3) The costs of the program in relation to economic development programs located in nearby states and other states with which the State frequently competes for jobs.
- (4) The extent to which the program has been utilized in geographically diverse parts of the State and the extent to which the program has been utilized in urban, suburban, and rural settings.
- (5) Any other matter the General Assembly finds relevant to a study of the program.

SECTION 32G.1.(j) Subsections (d) and (f) of this section are effective on and after October 31, 2002. Subsection (c) of this section becomes effective January 1, 2004, and applies to agreements entered into on or after that date. Subsection (g) of this section is effective when it becomes law and applies to agreements entered into on or after that date. The remainder of this section is effective when it becomes law.

PART XXXIII. MISCELLANEOUS PROVISIONS

EXECUTIVE BUDGET ACT APPLIES

SECTION 33.1. 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 33.2.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated July 17, 2004, 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 33.2.(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 2004-2005 fiscal year 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 requested adjustments to the budgets submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission in accordance with the steps that follow, and the line-item detail in the budget enacted by the General Assembly may be derived accordingly:

- (1) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.
- (2) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.

SECTION 33.2.(c) The budget enacted by the General Assembly shall also 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 2004-2005

SECTION 33.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2004-2005 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2004-2005 fiscal year.

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 33.3A.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2003-283 and S.L. 2003-284 remain in effect.

SECTION 33.3A.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2004-2005 fiscal year in S.L. 2003-283 and S.L. 2003-284 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

EFFECT OF HEADINGS

SECTION 33.4. 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 33.5. 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 33.6. Except as otherwise provided, this act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 3:09 p.m. on the 20th day of July, 2004.

AN ACT TO PROVIDE FOR CONSTITUTIONAL REQUIREMENTS FOR REPORTING AND REGULATION OF ELECTIONEERING COMMUNICATIONS, AS APPROVED BY THE UNITED STATES SUPREME COURT; TO ADOPT CONSTITUTIONAL LIMITS FOR CORPORATE EXPENDITURES ON MASS MAILINGS AND TELEPHONE BANKS; AND TO REPEAL A DUPLICATIVE REQUIREMENT FOR OUT-OF-STATE CONTRIBUTORS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 22E.

"Electioneering Communications.

"§ 163-278.80. Definitions.

As used in this Article, the following terms have the following definitions:

- (1) The term 'disclosure date' means either of the following:
 - a. The first date during any calendar year when an electioneering communication is aired after an entity has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of ten thousand dollars (\$10,000).
 - b. Any other date during that calendar year by which an entity has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.
- (2) The term 'electioneering communication' means any broadcast, cable, or satellite communication that has all the following characteristics:
 - a. Refers to a clearly identified candidate for a statewide office or the General Assembly.
 - b. Is made within one of the following time periods:
 1. 60 days before a general or special election for the office sought by the candidate, or
 2. 30 days before a primary election or a convention of a political party that has authority to nominate a candidate for the office sought by the candidate.
 - c. Is targeted to the relevant electorate.
- (3) The term 'electioneering communication' does not include any of the following:
 - a. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, political committee, or candidate.
 - b. A communication that constitutes an expenditure or independent expenditure under Article 22A of this Chapter.
 - c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely

- promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
- d. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
- (4) The term 'prohibited source' means any corporation, insurance company, labor union, or professional association. The term 'prohibited source' does not include an entity that meets all the criteria set forth in G.S. 163-278.19(f).
- (5) The term 'targeted to the relevant electorate' means a communication which refers to a clearly identified candidate for statewide office or the General Assembly and which can be received by 50,000 or more individuals in the State in the case of a candidacy for statewide office and 7,500 or more individuals in the district in the case of a candidacy for General Assembly.
- (6) The term '501(c)(4) organization' means either of the following:
- a. An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code.
 - b. An organization that has submitted an application to the Internal Revenue Service for determination of its status as an organization described in sub-subdivision a. of this subdivision.
- (7) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article.

"§ 163-278.81. Disclosure of Electioneering Communications.

(a) Statement Required. – Every individual, committee, association, or any other organization or group of individuals that makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours of each disclosure date, file with the Board a statement containing the information described in subsection (b) of this section.

(b) Contents of Statement. – Each statement required to be filed by this section shall be made under the penalty of perjury in G.S. 14-209 and shall contain the following information:

- (1) The identification of the entity making the disbursement, of any entity sharing or exercising direction or control over the activities of that entity, and of the custodian of the books and accounts of the entity making the disbursement.
- (2) The principal place of business of the entity making the disbursement if the entity is not an individual.
- (3) The amount of each disbursement of more than one thousand dollars (\$1,000) during the period covered by the statement and the identification of the entity to whom the disbursement was made.
- (4) The elections to which the electioneering communications pertain and the names, if known, of the candidates identified or to be identified.
- (5) If the disbursements were paid out of a segregated bank account that consists of funds contributed solely by individuals directly to that

account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of more than one thousand dollars (\$1,000) during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subdivision is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

- (6) If the disbursements were paid out of funds not described in subdivision (5) of this subsection, the names and addresses of all contributors who contributed an aggregate amount of more than one thousand dollars (\$1,000) to the entity making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"§ 163-278.82. Prohibition of corporate and labor disbursements for electioneering communications.

(a) Prohibition. – No prohibited source may make any disbursement for the costs of producing or airing any electioneering communication. No individual, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986), which has received any payment from a prohibited source may make any disbursement for the costs of producing and airing any electioneering communication. For the purpose of this section, the term 'electioneering communication' does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) if the communication is paid for exclusively by funds provided by individuals and the disbursements for costs of producing and airing the communication are paid out of a segregated bank account that consists of funds contributed solely by individuals directly to that account.

(b) Direct or Indirect Disbursement. – An electioneering communication shall be treated as made by a prohibited source if the prohibited source directly or indirectly disburses any amount for any of the costs of the communication.

"§ 163-278.83. Penalties.

Except as otherwise provided in this Article, a violation of this Article is a Class 2 misdemeanor. The State Board of Elections has the same authority to compel from any organization covered by this Article the disclosures required by this Article that the Board has to compel from a political committee the disclosures required by Article 22A of this Chapter. The civil penalties in G.S. 163-278.34 shall apply to violations of this Article, and where those provisions apply to violations involving contributions and expenditures they shall apply in the same manner to payments and disbursements in violation of G.S. 163-278.82."

SECTION 2. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 22F.

"Mass Mailings and Telephone Banks: Electioneering Communications.

"§ 163-278.90. Definitions.

As used in this Article, the following terms have the following definitions:

- (1) The term 'disclosure date' means either of the following:
- a. The first date during any calendar year when an electioneering communication is transmitted after an entity has made

- disbursements for the direct costs of producing or transmitting electioneering communications aggregating in excess of ten thousand dollars (\$10,000).
- b. Any other date during that calendar year by which an entity has made disbursements for the direct costs of producing or transmitting electioneering communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.
- (2) The term 'electioneering communication' means any mass mailing or telephone bank that has all the following characteristics:
- a. Refers to a clearly identified candidate for a statewide office or the General Assembly.
- b. Is made within one of the following time periods:
1. 60 days before a general or special election for the office sought by the candidate, or
 2. 30 days before a primary election or a convention of a political party that has authority to nominate a candidate for the office sought by the candidate.
- c. Is targeted to the relevant electorate.
- (3) The term 'electioneering communication' does not include any of the following:
- a. A communication appearing in a news story, commentary, or editorial distributed through any newspaper or periodical, unless that publication is owned or controlled by any political party, political committee, or candidate.
- b. A communication that constitutes an expenditure or independent expenditure under Article 22A of this Chapter.
- c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
- d. A communication that is distributed by a corporation solely to its shareholders or employees, or by a labor union or professional association solely to its members.
- e. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
- (4) The term 'mass mailing' means any mailing by United States mail or facsimile that is targeted to the relevant electorate and is made by a commercial vendor or made from any commercial list. Part 1A of Article 22A of this Chapter has its own internal definition of 'mass mailing' under the definition of 'print media,' and that definition does not apply in this Article.
- (5) The term 'prohibited source' means any corporation, insurance company, labor union, or professional association. The term 'prohibited source' does not include an entity that meets all the criteria set forth in G.S. 163-278.19(f).

- (6) The term 'targeted to the relevant electorate' means a communication which refers to a clearly identified candidate for statewide office or the General Assembly and which:
- a. If transmitted by mail or facsimile in connection with a clearly identified candidate for statewide office, is transmitted to 50,000 or more addresses in the State, by the transmission of identical or substantially similar matter within any 30-day period, or, in connection with a clearly identified candidate for the General Assembly, is transmitted to 5,000 or more addresses in the district, by the transmission of identical or substantially identical matter within any 30-day period.
 - b. If transmitted by telephone, in connection with a clearly identified candidate for statewide office, more than 50,000 telephone calls in the State of an identical or substantially similar nature within any 30-day period, or in the case of a clearly identified candidate for the General Assembly, more than 5,000 calls in the district of an identical or substantially similar nature within any 30-day period.
- (7) The term 'telephone bank' means telephone calls that are targeted to the relevant electorate, except when those telephone calls are made by volunteer workers, whether or not the design of the telephone bank system, development of calling instructions, or training of volunteers was done by paid professionals.
- (8) The term '501(c)(4) organization' means either of the following:
- a. An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code.
 - b. An organization that has submitted an application to the Internal Revenue Service for determination of its status as an organization described in sub-subdivision a. of this subdivision.
- (9) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article.

"§ 163-278.91. Disclosure of Electioneering Communications.

(a) Statement Required. – Every individual, committee, association, or any other organization or group of individuals who makes a disbursement for the direct costs of producing and transmitting electioneering communications in an aggregate amount in excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours of each disclosure date, file with the Board a statement containing the information described in subsection (b) of this section.

(b) Contents of Statement. – Each statement required to be filed by this section shall be made under the penalty of perjury in G.S. 14-209 and shall contain the following information:

- (1) The identification of the entity making the disbursement, of any entity sharing or exercising direction or control over the activities of that entity, and of the custodian of the books and accounts of the entity making the disbursement.
- (2) The principal place of business of the entity making the disbursement if the entity is not an individual.

- (3) The amount of each disbursement of more than one thousand dollars (\$1,000) during the period covered by the statement and the identification of the entity to whom the disbursement was made.
- (4) The elections to which the electioneering communications pertain and the names, if known, of the candidates identified or to be identified.
- (5) If the disbursements were paid out of a segregated bank account that consists of funds contributed solely by individuals directly to that account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of more than one thousand dollars (\$1,000) during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subdivision is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.
- (6) If the disbursements were paid out of funds not described in subdivision (5) of this subsection, the names and addresses of all contributors who contributed an aggregate amount of more than one thousand dollars (\$1,000) to the entity making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"§ 163-278.92. Prohibition of corporate and labor disbursements for electioneering communications.

(a) Prohibition. – No prohibited source may make any disbursement for the costs of producing or airing any electioneering communication. No individual, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986), which has received any payment from a prohibited source may make any disbursement for the costs of producing and airing any electioneering communication. For the purpose of this section, the term 'electioneering communication' does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) if the communication is paid for exclusively by funds provided by individuals and the disbursements for costs of producing and airing the communication are paid out of a segregated bank account that consists of funds contributed solely by individuals directly to that account.

(b) Direct or Indirect Disbursement. – An electioneering communication shall be treated as made by a prohibited source if the prohibited source directly or indirectly disburses any amount for any of the costs of the communication.

"§ 163-278.93. Penalties.

Except as otherwise provided in this Article, a violation of this Article is a Class 2 misdemeanor. The State Board of Elections has the same authority to compel from any organization covered by this Article the disclosures required by this Article that the Board has to compel from a political committee the disclosures required by Article 22A of this Chapter. The civil penalties in G.S. 163-278.34 shall apply to violations of this Article, and where those provisions apply to violations involving contributions and expenditures they shall apply in the same manner to payments and disbursements in violation of G.S. 163-278.92."

SECTION 3. G.S. 163-278.6(6) reads as rewritten:

"(6) The terms 'contribute' or 'contribution' mean any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, to a candidate to support or oppose the nomination or election of one or more clearly identified candidates, to a political committee, to a political party, or to a referendum committee, whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution. These terms include, without limitation, such contributions as labor or personal services, postage, publication of campaign literature or materials, in-kind transfers, loans or use of any supplies, office machinery, vehicles, aircraft, office space, or similar or related services, goods, or personal or real property. These terms also include, without limitation, the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or goods. Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or referendum committee. The term 'contribution' does not include an 'independent expenditure.' If:

- a. Any individual, person, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any disbursement for any electioneering communication, as defined in G.S. 163-278.80(2) and (3) and G.S. 163-278.90(2) and (3); and
- b. That disbursement is coordinated with a candidate, an authorized political committee of that candidate, a State or local political party or committee of that party, or an agent or official of any such candidate, party, or committee
that disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party."

SECTION 4. G.S. 163-278.12A is repealed.

SECTION 5.(a) G.S. 163-278.8(c) is repealed.

SECTION 5.(b) G.S. 163-278.14(b) reads as rewritten:

"(b) No ~~individual or person~~ entity shall give, and no candidate, committee or treasurer shall accept, any monetary contribution in excess of one hundred dollars (\$100.00) unless such contribution be in the form of a check, draft, money order, credit card charge, debit, or other noncash method that can be subject to written verification. The State Board of Elections may prescribe guidelines as to the reporting and verification of any method of contribution payment allowed under this Article. For a contribution made by credit card, the credit card account number of a contributor is not a public record."

SECTION 5.(c) This section applies to any contribution made on or after January 1, 2003.

SECTION 6. 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 7. This act is effective when it becomes law, except as otherwise provided in this act, and except that any criminal penalty resulting from this act becomes effective October 1, 2004.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 3:31 p.m. on the 20th day of July, 2004.

H.B. 1795**Session Law 2004-126**

AN ACT TO MODIFY THE AUTHORIZATION FOR SPECIAL INDEBTEDNESS FOR YOUTH DEVELOPMENT CENTERS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 46A.2 of S.L. 2003-284 reads as rewritten:

"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)~~ four million four hundred sixty thousand dollars (\$4,460,000) of ~~financing contract special indebtedness~~ to be used for ~~(i) design, construction drawings, and solicitation of bids for construction of three up to 13 youth development centers totaling up to 500-512 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.~~ Prevention. 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 incur special indebtedness ~~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."

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

In the General Assembly read three times and ratified this the 9th day of July, 2004.

Became law upon approval of the Governor at 11:15 a.m. on the 22nd day of July, 2004.

H.B. 1119**Session Law 2004-127**

AN ACT TO MAKE CHANGES TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-132.3 reads as rewritten:

"§ 163-132.3. Alterations to approved precinct boundaries.

(a) ~~No county board of elections may change any precinct boundary unless the proposed new precinct consists solely of contiguous territory and its new boundaries are coterminous with those of census blocks established under the latest U.S. Census, except in one of the following ways:~~

- (1) By dividing an existing precinct into one or more new precincts, without involving other existing precincts. The lines on which the precincts are divided shall follow census blocks established under the latest U.S. Census.
- (2) By combining one or more existing precincts into a new precinct. If one or more precincts are combined into a single precinct, the new precinct shall not be divided until at least four years after the effective date of the combination.
- (3) By moving a precinct boundary that does not follow a census block boundary established under the latest U.S. Census so that that precinct boundary does follow such a census block boundary.

All proposed new precincts shall consist solely of contiguous territory.

This section does not prohibit a county from continuing to use precincts that were allowed under the Combined Reporting Unit provisions of G.S. 163-132.1(c)(6).

The county boards of elections shall report precinct boundary changes by filing with the Legislative Services Office on current official census maps ~~or maps certified by the North Carolina Department of Transportation or the county's planning department~~ or on other maps or electronic databases approved by the Executive Director the new boundaries of these precincts. The Executive Director may require a county board of elections to file a written description of the boundaries of any precinct or part thereof. No newly created or altered precinct boundary is effective until approved by the Executive Director of the State Board as being in compliance with this ~~subsection.~~ ~~No precinct may be changed under this section between the date its boundaries become effective under G.S. 163-132.1(e) and January 2, 2002. Any changes to precincts during that period shall be made as provided in G.S. 163-132.1(d).~~

(b) The Executive Director of the State Board of Elections and the Legislative Services Office shall examine the maps of the proposed new or altered precincts and any required written descriptions. After its examination of the maps and their written descriptions, the Legislative Services Office shall submit to the Executive Director of the State Board of Elections its opinion as to whether all of the proposed precinct boundaries are in compliance with subsection (a) of this section, with notations as to where those boundaries do not comply with these standards. If the Executive Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts.

(c) If the Executive Director of the State Board determines that the proposed precinct boundaries are not in compliance with subsection (a) of this section, the Executive Director shall not approve those precinct boundaries. The Executive Director shall notify the county board of elections of his disapproval specifying the reasons. The county board of elections may then resubmit new precinct maps and written descriptions to cure the reasons for their disapproval.

~~(d) Upon a determination that restricting the county board to using Census block boundaries would force the county board to draw a precinct without an adequate voting place or otherwise to draw a precinct in such a way that the administration of elections would be seriously hindered, the Executive Director may permit a county board of~~

~~elections to designate a precinct boundary on a line that is not a Census block boundary of the most recent federal decennial Census if both the following conditions exist:~~

- ~~(1) The feature desired by the county board to be the precinct boundary meets at least one of the following:

 - a. Is likely to be designated by the Census Bureau as a block boundary in the next federal decennial Census.
 - b. Is a visible physical feature, readily distinguishable upon the ground, as certified by the North Carolina Department of Transportation on its highway maps or by the county manager of the relevant county or if there is no county manager the chair of the county board of commissioners on official county maps, of the following nature:
 1. Roads or streets.
 2. Water features or drainage features.
 3. Ridgelines.
 4. Rail features.
 5. Major aboveground power lines.
 6. Major footpaths.
 - c. Is a municipalities boundary, as certified by the city clerk on the official map of the city.
 - d. Is a township boundary, as certified by the county manager, or the chair of the county board of commissioners if there is no county manager, on the official map of the county.~~
- ~~(2) All the following are true:

 - a. The precincts of which the line is a boundary which could be combined into a unit whose outer boundaries would be Census blocks, similar to the Combined Reporting Unit permitted by G.S. 163-132.1(e)(6).
 - b. That combined unit would be reasonable in size.
 - c. That combined unit, together with all other such combined units, would not undermine the coverage of the State's precincts in the next Census.~~

~~(e) During the period beginning October 1, 2002, and ending ~~December 31, August 15, 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 1.(b) Article 12A of Chapter 163 of the General Statutes is amended by adding a new section to read:~~

~~**"§ 163-132.3A. Alterations to precinct names.**~~

~~No county board of elections shall assign to any precinct a name that has been used after January 1, 1999, for a precinct comprising different territory. That requirement does not apply to a precinct change made under G.S. 163-132.3(a)(3). The county board~~

of elections shall submit to the Executive Director of the State Board of Elections for approval every proposed change to a precinct name, and the Executive Director shall approve a name change only if it complies with this section."

SECTION 1.(c) This section becomes effective August 15, 2004, and applies to precincts established or changed on or after that date. Any changes to precincts proposed for the 2004 election shall be completed by September 17, 2004.

SECTION 2.(a) G.S. 7A-41(b) is amended by adding a new subdivision to read:

"(10a) Effective with the 2004 election, in addition to the boundaries provided for in this section, Superior Court District 14A also includes that portion of Durham Precinct 53 east of North Carolina Highway #751."

SECTION 2.(b) This section is effective when it becomes law, and also applies to the 2004 election cycle.

SECTION 3. G.S. 163-166.12 reads as rewritten:

"§ 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.

(b1) The county board of elections shall note the type of identification proof submitted by the voter under the provisions of subsection (a) or (b) of this section 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 4. G.S. 163-82.4(b) reads as rewritten:

"(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)~~163-275(13).
- (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."

SECTION 5. G.S. 163-299(d) reads as rewritten:

"(d) The provisions of Articles ~~13A~~14A and 15A of this Chapter shall apply to ballots used in municipal primaries and elections in the same manner as it is applied to county ballots."

SECTION 6. 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)~~ 163-96 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 7. G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan elections except for ~~and district court judge~~ elections under Article 25 of this Chapter."

SECTION 8.(a) G.S. 163-122 reads as rewritten:

"§ 163-122. Unaffiliated candidates nominated by petition.

(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. – Any qualified voter who seeks to have his name printed on the general election ballot as an unaffiliated candidate shall:

- (1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the State equal in number to two percent (2%) of the total number of registered voters in the State as reflected by the ~~most recent statistical report issued by voter registration records of the State Board of Elections. Elections as of January 1 of the year in which the general election is to be held.~~ No later than 5:00 p.m. on the fifteenth day preceding the date the petitions are due to be filed with the State Board of Elections, each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. Provided the petitions are timely submitted, the chairman shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county and shall attach to the petition his signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in his county. The chairman shall return each petition, together with the certificate required in this section, to the person who presented it to him for checking. Verification by the chairman of the county board of elections shall be completed within two weeks from the date such petitions are presented.
- (2) If the office is a district office comprised of two or more counties, file written petitions with the State Board of Elections supporting his

candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of registered voters in the district as reflected by the ~~latest statistical report issued by voter registration records of the State Board of Elections.~~ Elections as of January 1 of the year in which the general election is to be held. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and the procedure for certification and deadline for submission to the county board shall be the same as specified in (1) above.

- (3) If the office is a county office or a single county legislative district, file written petitions with the chairman or director of the county board of elections supporting his candidacy for a specified county office. These petitions must be filed with the county board of elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the county equal in number to four percent (4%) of the total number of registered voters in the county as reflected by the ~~most recent statistical report issued by voter registration records of the State Board of Elections.~~ Elections as of January 1 of the year in which the general election is to be held, except if the office is for a district consisting of less than the entire county and only the voters in that district vote for that office, the petitions must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of voters in the district according to the ~~most recent figures certified by the State Board of Elections.~~ voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held. Each petition shall be presented to the chairman or director of the county board of elections. The chairman shall examine, or cause to be examined, the names on the petition and the procedure for certification shall be the same as specified in (1) above.
- (4) If the office is a partisan municipal office, file written petitions with the chairman or director of the county board of elections in the county wherein the municipality is located supporting his candidacy for a specified municipal office. These petitions must be filed with the county board of elections on or before the time and date specified in G.S. 163-296 and must be signed by the number of qualified voters specified in G.S. 163-296. The procedure for certification shall be the same as specified in (1) above.

Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of elections with which the petitions have been timely filed shall cause the unaffiliated candidate's name to be printed on the general election ballots in accordance with G.S. 163-140.

An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year.

(b) Form of Petition. – Petitions requesting an unaffiliated candidate to be placed on the general election ballot shall contain on the heading of each page of the petition in bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS AN UNAFFILIATED CANDIDATE FOR THE OFFICE OF _____ IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

(c) This section does not apply to elections under Article 25 of this Chapter."

SECTION 8.(b) G.S. 163-296 reads as rewritten:

"§ 163-296. Nomination by petition.

In cities conducting partisan elections, any qualified voter who seeks to have his name printed on the regular municipal election ballot as an unaffiliated candidate may do so in the manner provided in G.S. 163-122, except that the petitions and affidavits shall be filed not later than 12:00 noon on the Friday preceding the seventh Saturday before the election, and the petitions shall be signed by a number of qualified voters of the municipality equal to at least four percent (4%) of the whole number of voters qualified to vote in the municipal election according to the ~~most recent figures certified by voter registration records of the State Board of Elections~~ as of January 1 of the year in which the general election is held. A person whose name appeared on the ballot in a primary election is not eligible to have his name placed on the regular municipal election ballot as an unaffiliated candidate for the same office in that year. The Board of Elections shall examine and verify the signatures on the petition, and shall certify only the names of signers who are found to be qualified registered voters in the municipality. Provided that in the case where a qualified voter seeks to have his name printed on the regular municipal election ballot as an unaffiliated candidate for election from an election district within the municipality, the petition shall be signed by four percent (4%) of the voters qualified to vote for that office."

SECTION 9.(a) G.S. 163-82.6 reads as rewritten:

"§ 163-82.6. Acceptance of application forms.

(a) How the Form May Be Submitted. – The county board of elections shall accept any form described in G.S. 163-82.3 if the applicant submits the form by mail, facsimile transmission, transmission of a scanned document, or in person. The applicant may delegate the submission of the form to another person. Any person who communicates to an applicant acceptance of that delegation shall deliver that form so that it is received by the appropriate county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be a Class 2 misdemeanor for any person to communicate to the applicant acceptance of that delegation and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be delivered in time for the applicant to vote in the next election. It shall be a Class 2 misdemeanor for any person to sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.

(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.

(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

- (1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,
- (2) If submitted in ~~person-person, or~~ by facsimile transmission, or by transmission of a scanned document, must be received by the county board of elections by a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,
- (3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election, except as provided in subsection (d) of this section.

(c1) If the application is submitted by facsimile ~~transmission, transmission or transmission of a scanned document~~, a permanent copy of the completed, signed form shall be delivered to the county board no later than 20 days before the election.

(d) Instances When Person May Register and Vote on Election Day. – If a person has become qualified to register and vote between the twenty-fifth day before an election and election day, then that person may apply to register on election day by submitting an application form described in G.S. 163-82.3(a) or (b) to:

- (1) A member of the county board of elections;
- (2) The county director of elections; or
- (3) The chief judge or a judge of the precinct in which the person is eligible to vote,

and, if the application is approved, that person may vote the same day. The official in subdivisions (1) through (3) of this subsection to whom the application is submitted shall decide whether the applicant is eligible to vote. The applicant shall present to the official written or documentary evidence that the applicant is the person he represents himself to be. The official, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to that official as to the applicant's qualifications. If the official determines that the person is eligible, the person shall be permitted to vote in the election and the county board shall add the person's name to the list of registered voters. If the official denies the application, the person shall be permitted to vote a challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to the full county board of elections. The State Board of Elections shall promulgate rules for the county boards of elections to follow in hearing appeals for denial of election day applications to register. No person shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.

(e) For purposes of subsection (d) of this section, persons who "become qualified to register and vote" during a time period:

- (1) Include those who during that time period are naturalized as citizens of the United States or who are restored to citizenship after a conviction of a felony; but

- (2) Do not include persons who reach the age of 18 during that time period, if those persons were eligible to register while 17 years old during an earlier period."

SECTION 9.(b) G.S. 163-257 reads as rewritten:

"§ 163-257. ~~Faesimile and Facsimile, electronic mail-mail, or scanned transmission of election materials.~~

An applicant entitled to exercise the rights conferred by this Article may apply for registration and an absentee ballot by ~~faesimile or facsimile, electronic mail-mail, or transmission of a scanned document~~ if otherwise qualified to apply for and vote by absentee ballot. A county board of elections may send and receive absentee ballot applications and accept voted ballots by ~~faesimile or facsimile, electronic mail-mail, or transmission of a scanned document~~ from eligible electors as defined in G.S. 163-245. The State Board of Elections shall promulgate uniform rules for the use of ~~faesimiles and facsimiles, electronic mail-mail, and transmission of scanned documents~~ in application and voting under this section, and all county boards of elections shall adhere to those rules."

SECTION 10. G.S. 163-97.1 reads as rewritten:

"§ 163-97.1. Voters affiliated with expired political party.

The State Board of Elections shall be authorized to promulgate appropriate procedures to order the county boards of elections to change the registration affiliation of all voters who are recorded on the voter registration books as being affiliated with a political party which has lost its legal status as provided in G.S. 163-97. The State Board of Elections shall not implement the authority contained in this section earlier than 90 days following the certification of the election in which the political party failed to continue its legal status as provided in G.S. 163-97. All voters affiliated with such expired political party shall be changed to "unaffiliated" designation by the State Board's order and all such registrants shall be entitled to declare a political party affiliation as provided in G.S. ~~163-74(b).~~163-82.17."

SECTION 11. G.S. 163-213.7 reads as rewritten:

"§ 163-213.7. Voting in presidential preference primary; ballots.

The names of all candidates in the presidential preference primary shall appear at an appropriate place on the ballot or voting machine. In addition the State Board of Elections shall provide a category on the ballot or voting machine allowing voters in each political party to vote an "uncommitted" or "no preference" status. The voter shall be able to cast his ballot for one of the presidential candidates of a political party or for an "uncommitted" or "no preference" status, but shall not be permitted to vote for candidates or "uncommitted" status of a political party different from his registration. Persons registered as "Unaffiliated" shall not participate in the presidential primary except as provided in G.S. ~~163-116.~~163-119."

SECTION 12. G.S. 163-1(b) reads as rewritten:

"(b) On Tuesday next after the first Monday in May preceding each general election to be held in November for the officers referred to in subsection (a) of this section, there shall be held in all election precincts within the territory for which the officers are to be elected a primary election for the purpose of nominating candidates for each political party in the State for those ~~offices-offices, and nonpartisan candidates as to offices~~ elected under the provisions of Article 25 of this Chapter."

SECTION 13. G.S. 163-112(d)(4) reads as rewritten:

- "(4) If ~~death, resignation-death~~ or disqualification of candidates results in the number of candidates being less than the number of positions to be

filled for that office, then the appropriate party executive committee shall, in accordance with G.S. 163-114, make nominations of persons equal to the number of positions to be filled and no primary shall be held and those names shall be printed on the general election ballot."

SECTION 14. G.S. 163-96(b) reads as rewritten:

"(b) Petitions for New Political Party. – Petitions for the creation of a new political party shall contain on the heading of each page of the petition in bold print or all in capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW POLITICAL PARTY TO BE NAMED _____ AND WHOSE STATE CHAIRMAN IS _____, RESIDING AT _____ AND WHO CAN BE REACHED BY TELEPHONE AT _____ ~~THE SIGNERS OF THIS PETITION INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE IN THE NEXT SUCCEEDING GENERAL ELECTION.~~"

All printing required to appear on the heading of the petition shall be in type no smaller than 10 point or in all capital letters, double spaced typewriter size. In addition to the form of the petition, the organizers and petition circulators shall inform the signers of the general purpose and intent of the new party.

The petitions must specify the name selected for the proposed political party. The State Board of Elections shall reject petitions for the formation of a new party if the name chosen contains any word that appears in the name of any existing political party recognized in this State or if, in the Board's opinion, the name is so similar to that of an existing political party recognized in this State as to confuse or mislead the voters at an election.

The petitions must state the name and address of the State chairman of the proposed new political party."

SECTION 15. G.S. 163-278(9) reads as rewritten:

"(9) The terms 'expend' or 'expenditure' mean any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make an expenditure, to support or oppose the nomination, election, or passage of one or more clearly identified candidates, or ballot measure. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. The term "expenditure" also includes any payment or other transfer made by a candidate, political committee, or referendum committee. ~~The special definition of "expenditure" in G.S. 163-278.12A applies only in that section.~~"

SECTION 16. G.S. 163-278.12(a) reads as rewritten:

"(a) Subject to ~~G.S. 163-278.16(f)~~ 163-278.39 and G.S. 163-278.14, individuals and other entities not otherwise prohibited from doing so may make independent expenditures. In the event an individual or other entity making independent expenditures but not otherwise required to report them makes independent expenditures in excess of one hundred dollars (\$100.00), that individual or entity shall file a statement of such independent expenditure with the appropriate board of elections in the manner prescribed by the State Board of Elections."

SECTION 17.(a) Article 7A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-82.10B. Confidentiality of date of birth.

Boards of elections shall keep confidential the date of birth of every voter-registration applicant and registered voter, except in the following situations:

- (1) When a voter has filed notice of candidacy for elective office under G.S. 163-106, 163-122, 163-123, or 163-294.2, or 163-323, has been nominated as a candidate under G.S. 163-98 or G.S. 163-114, or has otherwise formally become a candidate for elective office. The exception of this subdivision does not extend to an individual who meets the definition of 'candidate' only by beginning a tentative candidacy by receiving funds or making payments or giving consent to someone else to receive funds or transfer something of value for the purpose of exploring a candidacy.
- (2) When a voter is serving in an elective office.
- (3) When a voter has been challenged pursuant to Article 8 of this Chapter.
- (4) When a voter-registration applicant or registered voter expressly authorizes in writing the disclosure of that individual's date of birth.

The disclosure of an individual's age does not constitute disclosure of date of birth in violation of this section.

The county board of elections shall give precinct officials access to a voter's date of birth where necessary for election administration, consistent with the duty to keep dates of birth confidential.

Disclosure of a date of birth in violation of this section shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of a date of birth in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable."

SECTION 17.(b) G.S. 132-1.2(4) 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, date of birth, 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 17.(c) G.S. 163-82.10 reads as rewritten:

"§ 163-82.10. Official record of voter registration.

(a) 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, 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, dates of birth, 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 or dates of birth 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 or dates of birth 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 any paper hard copy registration records of voters in the county and shall keep them in a place where they are secure.

(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.

(b) Access to Registration Records. – Upon request by that person, the county board of elections shall provide to any person a list of the registered voters of the county or of any precinct or precincts in the county. The county board may furnish selective lists according to party affiliation, gender, race, date of registration, precinct name, precinct identification code, congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and voter history including primary, general, and special districts, or any other reasonable category. No list produced under this section shall contain a voter's date of birth. However, lists may be produced according to voters' ages. The following shall apply if a county maintains or has its voter registration list maintained on a computer:

- (1) In addition to the typed, mimeographed, photocopied, computer printout or label lists, the county board of elections shall make the voter registration information available to the public on magnetic medium. Magnetic medium for the purpose of this section shall consist of nine track tape or 3.5 inch diskettes and 5.25 inch diskettes readily accessible using MS-DOS or Microsoft Windows operating systems or both such systems; and
- (2) Information requested on magnetic medium shall contain the following: voter name, county voter identification number, residential address, mailing address, sex, race, age ~~or~~ but not date of ~~birth or both~~ birth, party affiliation, precinct name, precinct identification code,

congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and any other district information available, and voter history including primary, general, and special districts, or any other reasonable category, provided that this subsection shall not require a county to computerize its lists, but if a county does computerize it shall comply with subdivisions (1) and (2) of this subsection. The county board shall require each person to whom a list is furnished to reimburse the board for the actual cost incurred in preparing it, except as provided in subsection (c) of this section. Actual cost for the purpose of this section shall not include the cost of any equipment or any imputed overhead expenses. It may include the actual cost of paper, labels, and magnetic medium. The purchaser at its discretion may provide the magnetic medium. When furnishing information under this subsection to a purchaser on a magnetic medium provided by the county board or the purchaser, the county board may impose a service charge of up to twenty-five dollars (\$25.00).

(c) Free Lists. – Free lists of all registered voters in the county shall be provided in the following cases:

- (1) A county board that maintains voter records on computer shall provide, upon written request, one free list to:
 - a. The State chair of each political party; and
 - b. The county chair of each political party
once in every odd-numbered year, once during the first six calendar months of every even-numbered year, and once during the latter six calendar months of every even-numbered year.
- (2) A county board that does not maintain voter records on computer shall provide one free paper list every two years to the county chair of each political party.

Each free list shall include the name, address, gender, age but not date of birth, race, political affiliation, voting history, precinct, precinct name, precinct identification code, congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and voter history including primary, general, and special districts of each registered voter. The free paper list to the county party chairs shall group voters by precinct. All free lists shall be provided as soon as practicable but no later than 30 days after written request. Each State party chair shall provide the discs or tapes received from the county boards to candidates of that party who request the discs or tapes in writing. Each State party chair shall return discs and tapes to the county boards within 30 days after receiving them. As used in this section, "political party" means a political party as defined in G.S. 163-96.

(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 17.(d) G.S. 163-82.13 reads as rewritten:

"§ 163-82.13. Access to statewide voter registration file.

(a) **Free Copy for Political Parties.** – Beginning January 1, 1996, the State Board of Elections shall make available free of charge, upon written request, one magnetic copy of the statewide computerized voter registration file to the chairman of each political party as defined in G.S. 163-96 as soon as practicable after the close of registration before every statewide primary and election. The file made available to the political party chairmen shall contain the name, address, gender, age but not date of birth, race, voting history, political affiliation, and precinct of every registered voter in the State. If a county board enters telephone numbers into its computer lists of registered voters, then the free list provided under this subsection shall include telephone numbers.

(b) **Copies for Sale to Others.** – Beginning January 1, 1996, the State Board of Elections shall sell, upon written request, to other public and private organizations and persons magnetic copies of the statewide computerized voter registration file. The State Board of Elections may sell selective lists of registered voters according to county, congressional or legislative district, party affiliation, gender, age but not date of birth, race, date of registration, or any other reasonable category, or a combination of categories. The State Board of Elections shall require all persons to whom any list is furnished under this subsection to reimburse the board for the actual cost incurred in preparing it."

SECTION 17.(e) G.S. 163-42.1 reads as rewritten:

"§ 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. The date of birth of a student election assistant shall be kept confidential."

SECTION 17.(f) This section becomes effective June 1, 2005.

SECTION 18. Except as otherwise provided in this act, this act becomes effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 1:15 p.m. on the 26th day of July, 2004.

S.B. 577

Session Law 2004-128

AN ACT TO RAISE THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS ACTIONS TO FIVE THOUSAND DOLLARS, TO CLARIFY JURISDICTION FOR REVOCATION OF PROBATION WHEN PLEAS WERE ENTERED IN DISTRICT COURT, TO DEFINE DRUG TREATMENT COURT AS AN INTERMEDIATE PUNISHMENT, TO REQUIRE THE COURT TO GIVE NOTICE OF RIGHTS TO CONTEST MECHANICS' LIEN STORAGE CHARGES OF VEHICLES SEIZED UNDER THE DWI FORFEITURE LAWS, TO PERMIT CLERKS OF COURT TO GRANT DIVORCES IN UNCONTESTED ABSOLUTE DIVORCE ACTIONS, TO TERMINATE AS A MATTER OF LAW CERTAIN PARENTAL RIGHTS OF A PERSON CONVICTED OF CERTAIN CRIMES THAT RESULT IN THE VICTIM BECOMING PREGNANT, AND TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO CHANGE THE TERM OF OFFICE OF MAGISTRATES FOR AN INITIAL TERM OF TWO YEARS AND SUBSEQUENT TERMS OF FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-210 reads as rewritten:

"§ 7A-210. Small claim action defined.

For purposes of this Article a small claim action is a civil action wherein:

- (1) The amount in controversy, computed in accordance with G.S. 7A-243, does not exceed ~~four thousand dollars (\$4,000);~~ five thousand dollars (\$5,000); and
- (2) The only principal relief prayed is monetary, or the recovery of specific personal property, or summary ejectment, or any combination of the foregoing in properly joined claims; and

- (3) The plaintiff has requested assignment to a magistrate in the manner provided in this Article.

The seeking of the ancillary remedy of claim and delivery or an order from the clerk of superior court for the relinquishment of property subject to a lien pursuant to G.S. 44A-4(a) does not prevent an action otherwise qualifying as a small claim under this Article from so qualifying."

SECTION 2. G.S. 7A-271 is amended by adding a new subsection to read:

"(e) The superior court has exclusive jurisdiction over all hearings held pursuant to G.S. 15A-1345(e) where the district court had accepted a defendant's plea of guilty or no contest to a felony under the provisions of G.S. 7A-272(c), except that the district court shall have jurisdiction to hear these matters with the consent of the State and the defendant."

SECTION 3. G.S. 15A-1340.11 reads as rewritten:

"§ 15A-1340.11. Definitions.

The following definitions apply in this Article:

- (1) Active punishment. – A sentence in a criminal case that requires an offender to serve a sentence of imprisonment and is not suspended. Special probation, as defined in G.S. 15A-1351, is not an active punishment.
- (2) Community punishment. – A sentence in a criminal case that does not include an active punishment, an intermediate punishment, or any of the conditions of probation listed in subdivision (6) of this section.
- (3) Day-reporting center. – A facility to which offenders are required, as a condition of probation, to report on a daily or other regular basis at specified times for a specified length of time to participate in activities such as counseling, treatment, social skills training, or employment training.
- (3a) Drug treatment court program. – Program to which offenders are required, as a condition of probation, to comply with the rules adopted for the program as provided for in Article 62 of Chapter 7A of the General Statutes and to report on a regular basis for a specified time to participate in:
 - a. Court supervision.
 - b. Drug screening or testing.
 - c. Drug or alcohol treatment programs.
- (4) Repealed by Session Laws 1997-57, s. 2.
- (4a) House arrest with electronic monitoring. – Probation in which the offender is required to remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.
- (5) Intensive probation. – Probation that requires the offender to submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and to comply with the rules adopted for that Program. Unless otherwise ordered by the court, intensive supervision also requires multiple contacts by a probation

officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.

- (6) Intermediate punishment. – A sentence in a criminal case that places an offender on supervised probation and includes at least one of the following conditions:
- a. Special probation as defined in G.S. 15A-1351(a).
 - b. Assignment to a residential program.
 - c. House arrest with electronic monitoring.
 - d. Intensive probation.
 - e. Assignment to a day-reporting center.
 - f. Assignment to a drug treatment court program.
- (7) Prior conviction. – A person has a prior conviction when, on the date a criminal judgment is entered, the person being sentenced has been previously convicted of a crime:
- a. In the district court, and the person has not given notice of appeal and the time for appeal has expired; or
 - b. In the superior court, regardless of whether the conviction is on appeal to the appellate division; or
 - c. In the courts of the United States, another state, the armed services of the United States, or another country, regardless of whether the offense would be a crime if it occurred in North Carolina,
- regardless of whether the crime was committed before or after the effective date of this Article.
- (8) Residential program. – A program in which the offender, as a condition of probation, is required to reside in a facility for a specified period and to participate in activities such as counseling, treatment, social skills training, or employment training, conducted at the residential facility or at other specified locations."

SECTION 4. G.S. 20-28.4 reads as rewritten:

"§ 20-28.4. Release of impounded motor vehicles by judge.

(a) Release Upon Conclusion of Trial. – If the driver of a motor vehicle seized pursuant to G.S. 20-28.3:

- (1) Is subsequently not convicted of an offense involving impaired driving due to dismissal or a finding of not guilty; or
- (2) The judge at a forfeiture hearing conducted pursuant to G.S. 20-28.2(d) fails to find that the drivers license was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2; and
- (3) The vehicle has not previously been released to a lienholder pursuant to G.S. 20-28.3(e3),

the seized motor vehicle or insurance proceeds held by the clerk of court pursuant to G.S. 20-28.2(c1) or G.S. 20-28.3(h) shall be released to the motor vehicle owner conditioned upon payment of towing and storage costs. The court shall not waive the payment of towing and storage costs. The court shall include in its order notice to the owner of the seized motor vehicle still being held, that within 30 days of the date of the

court's order, the owner must make payment of the outstanding towing and storage costs for the motor vehicle and retrieve the motor vehicle, or give notice to Division of Motor Vehicles requesting a judicial hearing on the validity of any mechanics' lien on the motor vehicle for towing and storage costs.

(b) Notwithstanding G.S. 44A-2(d), if the owner of the seized motor vehicle does not obtain release of the vehicle within 30 days from the date of the court's order, the possessor of the seized motor vehicle has a mechanics' lien on the seized motor vehicle for the full amount of the towing and storage charges incurred since the motor vehicle was seized and may dispose of the seized motor vehicle pursuant to Article 1 of Chapter 44A of the General Statutes. Notice of the right to a judicial hearing on the validity of the mechanics' lien given to the owner of the motor vehicle in open court in accordance with subsection (a) of this section or delivery to the owner of the vehicle of a copy of the court's order entered in accordance with subsection (a) of this section shall satisfy the notice requirement of G.S. 44A-4(b)."

SECTION 5. G.S. 44A-4(b) reads as rewritten:

"(b) Notice and Hearings. –

- (1) If the property upon which the lien is claimed is a motor vehicle that is required to be registered, the lienor following the expiration of the relevant time period provided by subsection (a) shall give notice to the Division of Motor Vehicles that a lien is asserted and sale is proposed and shall remit to the Division a fee of ten dollars (\$10.00). The Division of Motor Vehicles shall issue notice by registered or certified mail, return receipt requested, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party and other person claiming an interest in the property who is actually known to the Division or who can be reasonably ascertained. The notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the Division by registered or certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the Division that a hearing is desired. The notice shall state the required information in simplified terms and shall contain a form whereby the recipient may notify the Division that a hearing is desired by the return of such form to the Division. The Division shall notify the lienor whether such notice is timely received by the Division. In lieu of the notice by the lienor to the Division and the notices issued by the Division described above, the lienor may issue notice on a form approved by the Division pursuant to the notice requirements above. If notice is issued by the lienor, the recipient shall return the form requesting a hearing to the lienor, and not the Division, within 10 days

from the date the recipient receives the notice if a judicial hearing is requested. If the registered or certified mail notice has been returned as undeliverable and the notice of a right to a judicial hearing has been given to the owner of the motor vehicle in accordance with G.S. 20-28.4, no further notice is required. Failure of the recipient to notify the Division or lienor, as specified in the notice, within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to the sale of the property against which the lien is asserted, and the lienor may proceed to enforce the lien by public or private sale as provided in this section and the Division shall transfer title to the property pursuant to such sale. If the Division or lienor, as specified in the notice, is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section and the Division will transfer title only pursuant to the order of a court of competent jurisdiction.

If the registered or certified mail notice has been returned as undeliverable, or if the name of the person having legal title to the vehicle cannot reasonably be ascertained and the fair market value of the vehicle is less than eight hundred dollars (\$800.00), the lienor may institute a special proceeding in the county where the vehicle is being held, for authorization to sell that vehicle. Market value shall be determined by the schedule of values adopted by the Commissioner under G.S. 105-187.3.

In such a proceeding a lienor may include more than one vehicle, but the proceeds of the sale of each shall be subject only to valid claims against that vehicle, and any excess proceeds of the sale shall be paid immediately to the Treasurer for disposition pursuant to Chapter 116B of the General Statutes.

The application to the clerk in such a special proceeding shall contain the notice of sale information set out in subsection (f) hereof. If the application is in proper form the clerk shall enter an order authorizing the sale on a date not less than 14 days therefrom, and the lienor shall cause the application and order to be sent immediately by first-class mail pursuant to G.S. 1A-1, Rule 5, to each person to whom notice was mailed pursuant to this subsection. Following the authorized sale the lienor shall file with the clerk a report in the form of an affidavit, stating that the lienor has complied with the public or private sale provisions of G.S. 44A-4, the name, address, and bid of the high bidder or person buying at a private sale, and a statement of the disposition of the sale proceeds. The clerk then shall enter an order directing the Division to transfer title accordingly.

If prior to the sale the owner or legal possessor contests the sale or lien in a writing filed with the clerk, the proceeding shall be handled in accordance with G.S. 1-301.2.

...."

SECTION 6. G.S. 50-10 reads as rewritten:

"§ 50-10. Material facts found by judge or jury in divorce or annulment proceedings; when notice of trial not required; procedure same as ordinary civil actions.

(a) ~~The~~ Except as provided for in subsection (e) of this section, the material facts in every complaint asking for a divorce or for an annulment shall be deemed to be denied by the defendant, whether the same shall be actually denied by pleading or not, and no judgment shall be given in favor of the plaintiff in any such complaint until such facts have been found by a judge or jury.

(b) Nothing herein shall require notice of trial to be given to a defendant who has not made an appearance in the action.

(c) The determination of whether there is to be a jury trial or a trial before the judge without a jury shall be made in accordance with G.S. 1A-1, Rules 38 and 39.

(d) The provisions of G.S. 1A-1, Rule 56, shall be applicable to actions for absolute divorce pursuant to G.S. 50-6, for the purpose of determining whether any genuine issue of material fact remains for trial by jury, but in the event the court determines that no genuine issue of material fact remains for trial by jury, the court must find the facts as provided herein. The court may enter a judgment of absolute divorce pursuant to the procedures set forth in G.S. 1A-1, Rule 56, finding all requisite facts from nontestimonial evidence presented by affidavit, verified motion or other verified pleading.

(e) The clerk of superior court, upon request of the plaintiff, may enter judgment in cases in which the plaintiff's only claim against the defendant is for absolute divorce, or absolute divorce and the resumption of a former name, and the defendant has been defaulted for failure to appear, the defendant has answered admitting the allegations of the complaint, or the defendant has filed a waiver of the right to answer, and the defendant is not an infant or incompetent person."

SECTION 7. G.S. 14-27.2 reads as rewritten:

"§ 14-27.2. First-degree rape.

(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

- (1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or
- (2) With another person by force and against the will of the other person, and:
 - a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or
 - b. Inflicts serious personal injury upon the victim or another person; or
 - c. The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes."

SECTION 8. G.S. 14-27.3 reads as rewritten:

"§ 14-27.3. Second-degree rape.

(a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse 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 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 C felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes."

SECTION 9. G.S. 48-3-603(a) reads as rewritten:

"(a) Consent to an adoption of a minor is not required of a person or entity whose consent is not required under G.S. 48-3-601, or:

- (1) An individual whose parental rights and duties have been terminated under Article 11 of Chapter 7B of the General Statutes or by a court of competent jurisdiction in another state;
- (2) A man described in G.S. 48-3-601(2), other than an adoptive father, if (i) the man has been judicially determined not to be the father of the minor to be adopted, or (ii) another man has been judicially determined to be the father of the minor to be adopted;
- (3) Repealed by Session Laws 1997-215, s. 11(a).
- (4) An individual who has relinquished parental rights or guardianship powers, including the right to consent to adoption, to an agency pursuant to Part 7 of this Article;
- (5) A man who is not married to the minor's birth mother and who, after the conception of the minor, has executed a notarized statement denying paternity or disclaiming any interest in the minor;
- (6) A deceased parent or the personal representative of a deceased parent's estate; or
- (7) An individual listed in G.S. 48-3-601 who has not executed a consent or a relinquishment and who fails to respond to a notice of the adoption proceeding within 30 days after the service of the notice.
- (8) An individual notified under G.S. 48-2-206 who does not respond in a timely manner or whose consent is not required as determined by the court.
- (9) An individual whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the minor to be adopted."

SECTION 10. G.S. 50-13.1(a) reads as rewritten:

"(a) Any parent, relative, or other person, agency, organization or institution claiming the right to custody of a minor child may institute an action or proceeding for the custody of such child, as hereinafter provided. Any person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the minor child may not claim the right to custody of that minor child. Unless a contrary intent is clear, the word "custody" shall be deemed to include custody or visitation or both."

SECTION 11. G.S. 7B-402 reads as rewritten:**"§ 7B-402. Petition.**

The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of the juvenile's parent, guardian, or custodian and shall allege the facts which invoke jurisdiction over the juvenile. A person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile need not be named in the petition. The petition may contain information on more than one juvenile when the juveniles are from the same home and are before the court for the same reason.

Sufficient copies of the petition shall be prepared so that copies will be available for each parent if living separate and apart, the guardian, custodian, or caretaker, the guardian ad litem, the social worker, and any person determined by the court to be a necessary party."

SECTION 12. G.S. 7B-406(a) reads as rewritten:

"(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to the parent, guardian, custodian, or caretaker requiring them to appear for a hearing at the time and place stated in the summons. No summons is required for any person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile. A copy of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor."

SECTION 13. G.S. 7B-1103 is amended by adding a new subsection to read:

"(c) No person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile may file a petition to terminate the parental rights of another with respect to that juvenile."

SECTION 14. G.S. 7B-1104 reads as rewritten:**"§ 7B-1104. Petition or motion.**

The petition, or motion pursuant to G.S. 7B-1102, shall be verified by the petitioner or movant and shall be entitled "In Re (last name of juvenile), a minor juvenile"; and shall set forth such of the following facts as are known; and with respect to the facts which are unknown the petitioner or movant shall so state:

- (1) The name of the juvenile as it appears on the juvenile's birth certificate, the date and place of birth, and the county where the juvenile is presently residing.
- (2) The name and address of the petitioner or movant and facts sufficient to identify the petitioner or movant as one authorized by G.S. 7B-1103 to file a petition or motion.
- (3) The name and address of the parents of the juvenile. If the name or address of one or both parents is unknown to the petitioner or movant, the petitioner or movant shall set forth with particularity the petitioner's or movant's efforts to ascertain the identity or whereabouts of the parent or parents. The information may be contained in an affidavit attached to the petition or motion and incorporated therein by reference. A person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile need not be named in the petition.

- (4) The name and address of any person who has been judicially appointed as guardian of the person of the juvenile.
- (5) The name and address of any person or agency to whom custody of the juvenile has been given by a court of this or any other state; and a copy of the custody order shall be attached to the petition or motion.
- (6) Facts that are sufficient to warrant a determination that one or more of the grounds for terminating parental rights exist.
- (7) That the petition or motion has not been filed to circumvent the provisions of Article 2 of Chapter 50A of the General Statutes, the Uniform Child-Custody Jurisdiction and Enforcement Act."

SECTION 15. G.S. 14-226 reads as rewritten:

"§ 14-226. Intimidating or interfering with witnesses.

(a) If any person shall by threats, menaces or in any other manner intimidate or attempt to intimidate any person who is summoned or acting as a witness in any of the courts of this State, or prevent or deter, or attempt to prevent or deter any person summoned or acting as such witness from attendance upon such court, he shall be guilty of a Class H felony.

(b) A defendant in a criminal proceeding who threatens a witness in the defendant's case with the assertion or denial of parental rights shall be a violation of this section."

SECTION 16. Section 10 of Article IV of the North Carolina Constitution reads as rewritten:

"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 initial term of appointment for a magistrate shall be for two years and subsequent terms shall be for four years. 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-office,~~ unless otherwise provided by the General Assembly."

SECTION 17. The amendment set out in Section 16 of this act shall be submitted to the qualified voters of the State at the 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 provide for the first term of office for magistrates of the General Court of Justice to be two years and for subsequent terms to be four years."

SECTION 18. If a majority of the votes cast on the question are in favor of the amendment set out in Section 16 of this act, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of that office. The amendment becomes effective January 1, 2005.

SECTION 19. G.S. 7A-171 reads as rewritten:

"§ 7A-171. Numbers; appointment and terms; vacancies.

(a) The General Assembly shall establish a minimum and a maximum quota of magistrates for each county. In no county shall the minimum quota be less than one. The number of magistrates in a county, within the quota set by the General Assembly, is determined by the Administrative Office of the Courts after consultation with the chief district court judge for the district in which the county is located.

(a1) The initial term of appointment for a magistrate is two years and subsequent terms shall be for a period of four years. The term of office begins on the first day of January of the odd-numbered year after appointment. The service of an individual as a magistrate filling a vacancy as provided in subsection (d) of this section does not constitute an initial term. For purposes of this section, any term of office for a magistrate who has served a two-year term is for four years even if the two-year term of appointment was before the effective date of this section, the term is after a break in service, or the term is for appointment in a different county from the county where the two-year term of office was served.

(b) Not earlier than the Tuesday after the first Monday nor later than the third Monday in December of each even-numbered year, the clerk of the superior court shall submit to the senior regular resident superior court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which ~~his~~the clerk's county is located the names of two (or more, if requested by the judge) nominees for each magisterial office ~~in the minimum quota established for the county~~county for which the term of office of the magistrate holding that position shall expire on December 31 of that year. Not later than the fourth Monday in December, the senior regular resident superior court judge shall, from the nominations submitted by the clerk of the superior court, appoint magistrates to fill the ~~minimum quota established~~positions for each county of ~~his~~the judge's district or set of districts. ~~The term of a magistrate so appointed shall be two years, commencing on the first day in January of the calendar year next ensuing the calendar year of appointment.~~

(c) ~~After the biennial appointment of the minimum quota of magistrates, additional magistrates in a number not to exceed, in total, the maximum quota established for each county may be appointed in the following manner. The chief district judge for the district court district in which the county is located, with the approval of the Administrative Officer of the Courts, may certify to the clerk of superior court that the minimum quota is insufficient for the efficient administration of justice and that a specified additional number, not to exceed the maximum quota established for the county, is required. Within 15 days after the receipt of this certification the clerk of superior court shall submit to the senior regular resident superior court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which his county is located the names of two (or more, if requested by the judge) nominees for each additional magisterial office. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall from the nominations submitted appoint magistrates in the number specified in the certification. A magistrate so appointed shall serve a term commencing immediately and expiring on the same day as the terms of office of~~

magistrates appointed to fill the minimum quota for the county. If an additional magisterial office for a county is approved to commence on January 1 of an odd-numbered year, the new position shall be filled as provided in subsection (b) of this section. If the additional position takes effect at any other time, it is to be filled as provided in subsection (d) of this section.

(d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of superior court shall submit to the senior regular resident superior court judge the names of two (or more, if so requested by the judge) nominees for the office vacated. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall appoint from the nominations received a magistrate who shall take office immediately and shall serve for the remainder of the unexpired term until December 31 of the even-numbered year, and thereafter the position shall be filled as provided in subsection (b) of this section."

SECTION 20. Sections 1 and 6 of this act become effective October 1, 2004, and apply to actions filed on or after that date. Sections 7 through 15 of this act become effective December 1, 2004, and apply to offenses committed on or after that date. Sections 2, 3, 16, 17, 18, and 20 of this act are effective when they become law. Sections 4 and 5 of this act become effective October 1, 2004, and apply to orders entered on or after that date. Section 19 of this act becomes effective only upon approval by the voters of the constitutional amendment proposed in Section 16 of this act. If the constitutional amendment proposed in Section 16 is approved by the voters, Section 19 of this act becomes effective January 1, 2005, and applies to appointments that take effect after that date.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 1:16 p.m. on the 26th day of July, 2004.

S.B. 991**Session Law 2004-129**

AN ACT TO IMPROVE STATE GOVERNMENT INFORMATION TECHNOLOGY PLANNING, ADOPT STANDARDS, MAKE PROJECT DEVELOPMENT MORE EFFICIENT, REDUCE COST OVERRUNS, PROVIDE ASSISTANCE TO STATE AGENCIES, AND INCREASE ACCOUNTABILITY.

The General Assembly of North Carolina enacts:

PART I. INFORMATION TECHNOLOGY MANAGEMENT.

SECTION 1. Part 1 of Article 3D of Chapter 147 of the General Statutes is redesignated as Part 1A.

SECTION 2. Article 3D of Chapter 147 of the General Statues is amended by adding a new Part 1 to read:

"Article 3D.

"~~Office of State~~ Information Technology Services.

"Part 1. State Information Technology Management.

"§ 147-33.72A. Purpose.

The purposes of this Article are to:

- (1) Establish a systematic process for planning and financing the State's information technology resources.

- (2) Develop standards and accountability measures for information technology projects, including criteria for adequate project management.
- (3) Implement procurement procedures that will result in cost savings on information technology purchases.
- (4) Create an Information Technology Advisory Board.
- (5) Create the Information Technology Fund for statewide information technology efforts.

"§ 147-33.72B. Planning and financing State information technology resources.

(a) In order to provide a systematic process for meeting the State's technology needs, the State Chief Information Officer shall develop a biennial State Information Technology Plan (Plan). The Plan shall be transmitted to the General Assembly by February 1 of each regular session.

(b) The Plan shall include the following elements:

- (1) An inventory of current information technology assets and major projects currently in progress. As used in this subdivision, the term 'major project' includes projects subject to review and approval under G.S. 147-33.72C, or that cost more than five hundred thousand dollars (\$500,000) to implement.
- (2) An evaluation and estimation of the significant unmet needs for information technology resources over a five-year time period. The Plan shall rank the unmet needs in priority order according to their urgency.
- (3) A statement of the financial requirements posed by the significant unmet needs, together with a recommended funding schedule for each major project currently in progress or recommended for initiation during the upcoming fiscal biennium.
- (4) An analysis of opportunities for statewide initiatives that would yield significant efficiencies or improve effectiveness in State programs.

(c) Each executive agency shall biennially develop an agency information technology plan that includes the information required under subsection (b) of this section. The Office of Information Technology Services shall consult with and assist agencies in the preparation of these plans. Each agency shall submit its plan to the State Chief Information Officer by October 1 of each even-numbered year.

"§ 147-33.72C. Project approval standards.

(a) Project Review and Approval. – The State Chief Information Officer shall:

- (1) Review all State agency information technology projects that cost or are expected to cost more than five hundred thousand dollars (\$500,000), whether the project is undertaken in a single phase or component or in multiple phases or components. If the State Chief Information Officer determines a project meets the quality assurance requirements established under this Article, the State Chief Information Officer shall approve the project.
- (2) Establish thresholds for determining which information technology projects costing or expected to cost five hundred thousand dollars (\$500,000) or less shall be subject to review and approval under subdivision (a)(1) of this section. When establishing the thresholds, the State Chief Information Officer shall consider factors such as project cost, potential project risk, agency size, and projected budget.

(b) Project Implementation. – No State agency shall proceed with an information technology project that is subject to review and approval under subsection (a) of this section until the State CIO approves the project. If a project is not approved, the State CIO shall specify in writing to the agency the grounds for denying the approval. The State CIO shall provide this information to the agency within five business days of the denial.

(c) Suspension of Approval. – The State Chief Information Officer may suspend the approval of any information technology project that does not continue to meet the applicable quality assurance standards. This authority extends to any information technology project that costs more than five hundred thousand dollars (\$500,000) to implement regardless of whether the project was originally subject to review and approval under subsection (a) of this section. If the State CIO suspends approval of a project, the State CIO shall specify in writing to the agency the grounds for suspending the approval. The State CIO shall provide this information to the agency within five business days of the suspension.

The Office of Information Technology Services shall report any suspension immediately to the Office of the State Controller and the Office of State Budget and Management. The Office of State Budget and Management shall not allow any additional expenditure of funds for a project that is no longer approved by the State Chief Information Officer.

(d) General Quality Assurance. – Information technology projects that are not subject to review and approval under subsection (a) of this section shall meet all other standards established under this Article.

(e) Performance Contracting. – All contracts between a State agency and a private party for information technology projects shall include provisions for vendor performance review and accountability. The State CIO may require that these contract provisions include monetary penalties for projects that are not completed within the specified time period or that involve costs in excess of those specified in the contract. The State CIO may require contract provisions requiring a vendor to provide a performance bond.

"§ 147-33.72D. Agency/State CIO Dispute Resolution.

(a) Agency Request for Review. – In any instance where the State CIO has denied or suspended the approval of an information technology project, or has denied an agency's request for deviation pursuant to G.S. 147-33.84, the agency may request a committee review of the State CIO's decision. The agency shall submit a written request for review to the State Controller within 10 working days following the agency's receipt of the State CIO's written grounds for denial or suspension. The agency's request for review shall specify the grounds for its disagreement with the State CIO's determination. The agency shall include with its request for review a copy of the State CIO's written grounds for denial or suspension.

(b) Review Process. – The review committee shall consist of the State Controller, the State Budget Officer, and the Secretary of Administration. The State Controller shall serve as the chair of the review committee. If the chair or one of the members of the review committee is an official of the agency that has requested the review, that person is deemed to have a conflict of interest and is ineligible to participate in the consideration of the matter, and the two remaining members of the review committee shall select an alternate official to serve as a member of the review committee for that specific matter. Within 10 business days following receipt of an agency's request for review, the committee shall meet to consider the matter. The committee shall review the

information provided, and may request additional information from either the agency or the State CIO. The committee may affirm, reverse, or modify the decision of the State CIO, or may remand the matter back to the State CIO for additional findings. Within 30 days after initial receipt of the agency's request for review, the committee shall notify the agency and the State CIO of its decision in the matter. The notification shall be in writing, and shall specify the grounds for the committee's decision. The committee may reverse or modify a decision of the State CIO when the committee finds at least one of the following:

- (1) The decision of the State CIO is unsupported by substantial evidence that the agency project fails to meet one or more standards of efficiency and quality of State government information technology as required under this Article.
- (2) The State CIO did not have the requisite statutory authority or jurisdiction to render the decision.
- (3) The decision of the State CIO was rendered in a manner that was arbitrary, capricious, or indicative of an abuse of discretion.

"§ 147-33.72E. Project management standards.

(a) Agency Responsibilities. – Each agency shall provide for a project manager who meets the applicable quality assurance standards for each information technology project that is subject to approval under G.S. 143-33.72C(a). The project manager shall be subject to the review and approval of the State Chief Information Officer.

The agency project manager shall provide periodic reports to the project management assistant assigned to the project by the State CIO under subsection (b) of this section. The reports shall include information regarding project costs, issues related to hardware, software, or training, projected and actual completion dates, and any other information related to the implementation of the information technology project.

(b) State Chief Information Officer Responsibilities. – The State Chief Information Officer shall designate a project management assistant from the Office of Information Technology Services for projects that receive approval under G.S. 147-33.72C(a). The State Chief Information Officer may designate a project management assistant for any other information technology project.

The project management assistant shall advise the agency with the initial planning of a project, the content and design of any request for proposals, contract development, procurement, and architectural and other technical reviews. The project management assistant shall also monitor agency progress in the development and implementation of the project and shall provide status reports to the State Chief Information Officer, including recommendations regarding continued approval of the project.

"§ 147-33.72F. Procurement procedures; cost savings.

Pursuant to Part 4 of this Article, the Office of State Technology Services shall establish procedures for the procurement of information technology. The procedures may include aggregation of hardware purchases, the use of formal bid procedures, restrictions on supplemental staffing, enterprise software licensing, hosting, and multiyear maintenance agreements. The procedures may require agencies to submit information technology procurement requests to the Office of State Technology Services on October 1, January 1, and June 1 of each fiscal year in order to allow for bulk purchasing.

"§ 147-33.72G. Information Technology Advisory Board.

(a) Creation; Membership. – The Information Technology Advisory Board is established and shall be located within the Office of Information Technology Services

for organizational, budgetary, and administrative purposes. The Board shall consist of 12 members, four appointed by the Governor, four appointed by the President Pro Tempore of the Senate, and four appointed by the Speaker of the House of Representatives. All appointments shall be from among persons knowledgeable in the subject area and having experience with State government or information technology deployment within large organizations. Each member shall serve at the pleasure of the officer who appointed the member. The Governor shall designate a chair from among the membership.

(b) Conflicts of Interest. – Members of the Advisory Board shall not serve on the board of directors or other governing body of, be employed by, or receive any remuneration of any kind from any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State of North Carolina.

No member of the Advisory Board shall vote on an action affecting solely that person's State agency.

(c) Powers and Duties. – The Board shall:

- (1) Review and comment on the State Information Technology Plan developed by the State Chief Information Officer under G.S. 147-33.72B(b).
- (2) Review and comment on the information technology plans of the executive agencies prepared under G.S. 147-33.72B(c).
- (3) Review and comment on the statewide technology initiatives developed by the State Chief Information Officer.

(d) Meetings. – The Information Technology Advisory Board shall adopt bylaws containing rules governing its meeting procedures. The Board shall meet at least quarterly. The Office of Information Technology Services shall provide administrative staff and facilities for Advisory Board meetings. The expenses of the Board shall be paid from receipts available to the Office of Information Technology Services as requested by the Board. Advisory Board members shall receive per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6; and
- (2) All other commission members, at the rate established in G.S. 138-5.

"§ 147-33.72H. Information Technology Fund.

There is established a special revenue fund to be known as the Information Technology Fund, which may receive transfers or other credits as authorized by the General Assembly. Money may be appropriated from the Information Technology Fund to meet statewide requirements, including planning, project management, security, electronic mail, State portal operations, and the administration of systemwide procurement procedures. Expenditures involving funds appropriated to the Office of Information Technology Services from the Information Technology Fund shall be made by the State CIO in consultation with the Information Technology Advisory Board. By October 1 of each year, the State CIO shall submit to the Joint Legislative Oversight Committee on Information Technology a report on all expenditures involving funds appropriated to the Office of Information Technology Services from the Information Technology Fund for the preceding fiscal year. Interest earnings on the Information Technology Fund balance shall be credited to the Information Technology Fund."

SECTION 3. G.S. 147-33.76 reads as rewritten:

"§ 147-33.76. ~~Head of the Office of Information Technology Services; qualification and appointment~~ Qualification, appointment, and duties of the State Chief Information Officer.

(a) The Office of Information Technology Services shall be managed and administered by the State Chief Information ~~Officer.~~ Officer ('State CIO'). The State Chief Information Officer shall be qualified by education and experience for the office and shall be appointed by ~~the Governor after consultation with the Senate Committee on Information Technology and the House Committee on Technology meeting jointly (or by similar committees designated by the rules of each house).~~ and serve at the pleasure of the Governor.

(b) ~~The Governor shall submit the name of the person to be appointed for review by the entities specified in subsection (a) of this section.~~

(b1) The State CIO shall be responsible for developing and administering a comprehensive long-range plan to ensure the proper management of the State's information technology resources. The State CIO shall set technical standards for information technology, review and approve major information technology projects, review and approve State agency information technology budget requests, establish information technology security standards, provide for the procurement of information technology resources, and develop a schedule for the replacement or modification of major systems. The State CIO is authorized to adopt rules to implement this Article.

(c) The salary of the State Chief Information Officer shall be set by the General Assembly in the Current Operations Appropriations Act. The State Chief Information Officer shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the State Personnel Act."

SECTION 4. G.S. 147-33.78 is repealed.

SECTION 5. G.S. 147-33.79 is repealed.

SECTION 6. All (i) records, (ii) personnel positions and salaries, (iii) property, and (iv) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Information Resources Management Commission are transferred to and vested in the Office of Information Technology Services authorized by Article 3D of Chapter 147 of the General Statutes.

SECTION 7.(a) On June 30, 2004, the State Controller shall transfer the sum of seven million five hundred thousand dollars (\$7,500,000) from the Information Technology Services Internal Service Fund to the Information Technology Fund.

SECTION 7.(b) For the fiscal year 2004-2005 appropriations are made from the Information Technology Fund as follows:

- (1) The sum of two million seven hundred thousand dollars (\$2,700,000) to the Office of State Controller to implement the recommendations of the statewide Business Infrastructure Study; and
- (2) The sum of four million eight hundred thousand dollars (\$4,800,000) to the Office of Information Technology Services for the following purposes:

Security Assessment and Remediation	\$3,000,000
Project Management Office Expansion	\$600,000
Legacy Systems Study	\$1,000,000
Legal Services	\$100,000
ITS Management Staff	\$100,000

SECTION 7A.(a) The heading for Article 26 of Chapter 120 of the General Statutes reads as rewritten:

"Article 26.

Joint ~~Select~~ Legislative Oversight Committee on Information Technology."

SECTION 7A.(b) G.S. 120-230 reads as rewritten:

"§ 120-230. Creation and purpose of the Joint ~~Select~~ Legislative Oversight Committee on Information Technology.

There is established the Joint ~~Select~~ Legislative Oversight Committee on Information Technology. The Committee shall review current information technology that impacts public policy, including electronic data processing and telecommunications, software technology, and information processing. The goals and objectives of the Committee shall be to develop electronic commerce in the State and to coordinate the use of information technology by State agencies in a manner that assures that the citizens of the State receive quality services from all State agencies and that the needs of the citizens are met in an efficient and effective manner. The Committee shall examine, on a continuing basis, systemwide issues affecting State government information technology, including, but not limited to, State information technology operations, infrastructure, development, financing, administration, and service delivery. The Committee may examine State agency or enterprise-specific information technology issues. The Committee shall make ongoing recommendations to the General Assembly on ways to improve the effectiveness, efficiency, and quality of State government information technology."

SECTION 7A.(c) G.S. 120-231 reads as rewritten:

"§ 120-231. Committee duties; reports.

(a) The Joint ~~Select~~ Legislative Oversight Committee on Information Technology may:

- (1) Evaluate the current technological infrastructure of State government and information systems use and needs in State government and determine potential demands for additional information staff, equipment, software, data communications, and consulting services in State government during the next 10 years. The evaluation may include an assessment of ways technological infrastructure and information systems use may be leveraged to improve State efficiency and services to the citizens of the State, including an enterprise-wide infrastructure and data architecture.
- (2) Evaluate information technology governance, policy, and management practices, including policies and practices related to personnel and acquisition issues, on both a statewide and project level.
- (3) Study, evaluate, and recommend changes to the North Carolina General Statutes relating to electronic commerce.
- (4) Study, evaluate, and recommend action regarding reports received by the Committee.
- (5) Study, evaluate, and recommend any changes proposed for future development of the information highway system of the State.

(b) The Committee may consult with the ~~Information Resource Management Commission~~ State Chief Information Officer on statewide technology strategies and initiatives and review all legislative proposals and other recommendations of the ~~Information Resource Management Commission~~ Office of Information Technology Services.

(c) The Committee shall ~~report by March 1 of each year to the Appropriations Committees of the Senate and the House of Representatives concerning the Committee's~~

~~activities and findings and any recommendations for statutory changes. submit annual reports to the General Assembly on or before the convening of the regular session of the General Assembly each year. The Committee may submit interim reports at any time it deems appropriate."~~

SECTION 7A.(d) G.S. 120-232 reads as rewritten:

"§ 120-232. Committee membership; terms; organization; vacancies.

(a) The Committee shall consist of 16 members as follows:

- (1) ~~Five-Eight~~ members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate. At least two appointees shall be members of the Senate Appropriations Committee.
- (2) ~~Five-Eight~~ members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of Representatives. At least two appointees shall be members of the House of Representatives Appropriations Committee.
- (3) ~~Three members of the public, appointed by the President Pro Tempore of the Senate.~~
- (4) ~~Three members of the public, appointed by the Speaker of the House of Representatives.~~

~~The members appointed to the Committee from the public shall be chosen from among individuals who have the ability and commitment to promote and fulfill the purposes of the Committee, including individuals who have expertise in the field of computer technology or commercial transactions.~~

(b) ~~Members of the Committee shall serve terms of two years beginning on August 15 of at the convening of the General Assembly in each odd-numbered year, with no prohibition against being reappointed, except initial appointments shall begin on appointment and end on the day of convening of the 2005 General Assembly. be for terms as follows:~~

- (1) ~~The public members shall serve terms of three years.~~
- (2) ~~The members who are members of the General Assembly shall serve terms of two years.~~

~~Initial terms shall commence on August 15, 1999.~~

(c) ~~Members who are elected officials may complete a term of service on the Committee even if they do not seek reelection or are not reelected, but resignation or removal from service constitutes resignation or removal from service on the Committee.~~

(d) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each select a legislative member from their appointees to serve as cochair of the Committee.

(e) The Committee shall meet at least once a quarter and may meet at other times upon the call of the cochairs. A majority of the members of the Committee shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Committee shall be necessary for action to be taken by the Committee.

(f) All members shall serve at the will of their appointing officer. A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment."

PART II. CONFORMING CHANGES IN ARTICLE 3D OF CHAPTER 147.

SECTION 8. The heading of Part 1A of Article 3D of Chapter 147 of the General Statutes, as redesignated under Section 1 of this act, reads as rewritten:

"Part 1A. Transfer and Organization of Office of Information Technology Services."

SECTION 9. G.S. 147-33.75 reads as rewritten:

"§ 147-33.75. ~~Transfer to~~ Office located in the Office of the Governor.

(a) ~~The Office of Information Technology Services ("Office") of the Department of Commerce and the Information Resource Management Commission are hereby transferred to~~ shall be housed in the Office of the Governor.

(b) The Governor has the authority, powers, and duties over the Office that are assigned to the Governor and the head of department pursuant to Article 1 of Chapter 143B of the General Statutes, G.S. 143A-6(b), and the Constitution and other laws of this State."

SECTION 10. G.S. 147-33.82(d)(2) is repealed.

SECTION 11. G.S. 147-33.82(e) is repealed.

SECTION 12. G.S. 147-33.82(c), G.S. 147-33.82(d) as amended by Section 10 of this act, G.S. 147-33.82(e1), and G.S. 147-33.82(f), are recodified as separate sections as Part 5 of Article 3D of Chapter 147 of the General Statutes, G.S. 147-33.110 through G.S. 147-33.113 respectively.

SECTION 13. G.S. 147-33.82(a) reads as rewritten:

"§ 147-33.82. ~~Powers and duties~~ Functions of the State Chief Information Officer and the Office of Information Technology Services.

(a) ~~The~~ In addition to any other functions required by this Article, the Office of Information Technology Services shall:

- (1) Procure all information technology for State agencies, as provided in Part 4 of this Article.
- (2) Submit for approval of the ~~Information Resources Management Commission~~ Office of State Budget and Management all rates and fees for common, shared State government-wide technology services provided by the ~~Office~~ Office on a fee-for-service basis and not covered by another fund.
- (3) Conduct an annual assessment of State agencies for compliance with statewide policies for information technology and ~~Submit~~ submit for approval ~~review~~ of the ~~Information Resources Management Commission~~ Technology Advisory Board recommended ~~State government-wide, enterprise-level policies~~ statewide policies for information technology.
- (4) Develop standards, procedures, and processes to implement policies approved by the ~~Information Resources Management Commission~~ State CIO.
- (5) ~~Assure that~~ Review ~~State agencies implement and manage agency information technology portfolio-based management of State information technology resources, in accordance~~ resources for compliance with the direction set by the State Chief Information Officer. ~~this Article.~~
- (6) ~~Assure~~ Review that ~~State agencies implement and manage agency implementation of statewide information technology enterprise management efforts of State government, in accordance~~ government for compliance with the direction set by the State Chief Information Officer. ~~this Article.~~
- (7) ~~Provide recommendations to the Information Resources Management Commission for its biennial technology strategy and to develop State~~

- ~~government wide technology initiatives to be approved by the Information Resources Management Commission.~~
- (8) Develop a project management, quality assurance, and architectural review process ~~that adheres to the Information Resources Management Commission's certification program and portfolio-based management initiative for projects that require review and approval under G.S. 147-33.72C(a).~~
- (9) ~~Establish and utilize the Information Technology Management Advisory Council to consist of representatives from other State agencies to advise the Office on information technology business management and technology matters."~~

SECTION 14. Part 5 of Article 3D of Chapter 147 of the General Statutes, as recodified by Section 12 of this act, reads as rewritten:

"Part 5. Security for Information Technology Services.

"§ 147-33.110. Statewide security standards.

The State Chief Information Officer shall establish ~~an enterprise wide~~ a statewide set of standards for information technology security to maximize the functionality, security, and interoperability of the State's distributed information technology assets, including communications and encryption technologies. The State CIO shall review and revise the security standards annually. As part of this function, the State Chief Information Officer shall review periodically existing security standards and practices in place among the various State agencies to determine whether those standards and practices meet ~~enterprise wide~~ statewide security and encryption requirements. The State Chief Information Officer may assume the direct responsibility of providing for the information technology security of any State agency that fails to adhere to security standards adopted ~~pursuant to this section under this Article.~~ Any actions taken by the State Chief Information Officer under this ~~subsection~~ section shall be reported to the ~~Information Resources Management Commission~~ Information Technology Advisory Board at its next scheduled meeting.

"§ 147-33.111. State CIO approval of security standards and security assessments.

(a) Notwithstanding G.S. 143-48.3 or any other provision of law, and except as otherwise provided by this ~~subsection~~ section, all information technology security purchased using State funds, or for use by a State agency or in a State facility, shall be subject to approval by the State Chief Information Officer in accordance with security standards adopted under this ~~section~~ Article.

~~(b)~~ If the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units as defined by G.S. 115C-5, or the North Carolina Community Colleges System develop their own security standards, taking into consideration the mission and functions of that entity, that are comparable to or exceed those set by the State Chief Information Officer under this section, then these entities may elect to be governed by their own respective security standards, and approval of the State Chief Information Officer shall not be required before the purchase of information technology security. The State Chief Information Officer shall consult with the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units, and the North Carolina Community Colleges System in reviewing the security standards adopted by those entities.

(2) Repealed.

~~(3)(c)~~ Before a State agency may enter into any contract with another party for an assessment of network vulnerability, including network penetration or any similar procedure, the State agency shall notify the State Chief Information Officer and obtain approval of the request. The State Chief Information Officer shall refer the request to the State Auditor for a determination of whether the Auditor's office can perform the assessment and testing. If the State Auditor determines that ~~he~~ the Auditor's office can perform the assessment and testing, then the State Chief Information Officer shall authorize the assessment and testing by the Auditor. If the State Auditor determines that ~~his~~ the Auditor's office cannot perform the assessment and testing, then with the approval of the State Chief Information Officer and State Auditor, the State agency may enter into a contract with another party for the assessment and testing. If the State agency enters into a contract with another party for assessment and testing, the State agency shall issue public reports on the general results of the ~~reviews undertaken pursuant to this subdivision, but the~~ reviews. ~~The contractor must~~ shall provide the State agency with detailed reports of the security issues identified ~~pursuant to this subdivision~~ that shall not be disclosed as provided in G.S. 132-6.1(c). The State agency shall provide the State Chief Information Officer and the State Auditor with copies of the ~~detailed reports~~ reports that shall not be disclosed as provided in G.S. 132-6.1(c).

"§ 147-33.112. Assessment of agency compliance with security standards.

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~~ 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. include the information obtained from the assessment in the State Information Technology Plan required under G.S. 147-33.72B.

"§ 147-33.113. State agency cooperation.

(a) 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 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.

(b) The information provided by State agencies to the State Chief Information Officer under this ~~subsection~~ section is protected from public disclosure pursuant to G.S. 132-6.1(c)."

SECTION 15. G.S. 147-33.83 reads as rewritten:

"§ 147-33.83. **Information resources centers and services.**

(a) With respect to all executive departments and agencies of State government, except the Department of Justice if they do not elect at their option to participate, the Office of Information Technology Services shall have all of the following powers and duties:

- (1) To establish and operate information resource centers and services to serve two or more departments on a cost-sharing basis, if the ~~Information Resources Management Commission~~ State CIO, after consultation with the Office of State Budget and Management, decides it is advisable from the standpoint of efficiency and economy to establish these centers and services.
- (2) With the approval of the ~~Information Resources Management Commission~~, Office of State Budget and Management, to charge each department for which services are performed its proportionate part of the cost of maintaining and operating the shared centers and services.
- (3) ~~With the approval of the Information Resources Management Commission, to~~ To require any department served to transfer to the Office ownership, custody, or control of information processing equipment, supplies, and positions required by the shared centers and services.
- (4) ~~With the approval of the Information Resources Management Commission, to~~ To adopt reasonable rules for the efficient and economical management and operation of the shared centers, services, and the integrated State telecommunications network.
- (5) ~~With the approval of the Information Resources Management Commission, to~~ To adopt plans, policies, procedures, and rules for the acquisition, management, and use of information technology resources

in the departments affected by this section to facilitate more efficient and economic use of information technology in these departments.

- (6) To develop and promote training programs to efficiently implement, use, and manage information technology resources.
- (7) To provide cities, counties, and other local governmental units with access to the Office of Information Technology Services, information resource centers and services as authorized in this section for State agencies. Access shall be provided on the same cost basis that applies to State agencies.

(b) No data of a confidential nature, as defined in the General Statutes or federal law, may be entered into or processed through any cost-sharing information resource center or network established under this section until safeguards for the data's security satisfactory to the department head and the State Chief Information Officer have been designed and installed and are fully operational. Nothing in this section may be construed to prescribe what programs to satisfy a department's objectives are to be undertaken, nor to remove from the control and administration of the departments the responsibility for program efforts, regardless whether these efforts are specifically required by statute or are administered under the general program authority and responsibility of the department. This section does not affect the provisions of G.S. 147-64.6, 147-64.7, or 147-33.91.

(c) Notwithstanding any other provision of law, the Office of Information Technology Services shall provide information technology services on a cost-sharing basis to the General Assembly and its agencies as requested by the Legislative Services Commission."

SECTION 16. G.S. 147-33.84 reads as rewritten:

"§ 147-33.84. Deviations authorized for Department of Revenue. Revenue; agency requests for deviations.

(a) The Department of Revenue is authorized to deviate from any provision in G.S. 147-33.83(a) that requires departments or agencies to consolidate information processing functions on equipment owned, controlled, or under custody of the Office of Information Technology Services. All deviations by the Department of Revenue pursuant to this section shall be reported in writing within 15 days by the Department of Revenue to the ~~Information Resources Management Commission~~ State CIO and shall be consistent with available funding. Any State agency may apply in writing to the State CIO for authority to deviate. If granted, any deviation shall be consistent with available funding and shall be subject to such terms and conditions as may be specified by the State CIO. If the agency's request for deviation is denied by the State CIO, the agency may request a review of the decision pursuant to G.S. 147-33.72D.

(b) The Department of Revenue is authorized to adopt and shall adopt plans, policies, procedures, requirements, and rules for the acquisition, management, and use of information processing equipment, information processing programs, data communications capabilities, and information systems personnel in the Department of Revenue. If the plans, policies, procedures, requirements, rules, or standards adopted by the Department of Revenue deviate from the policies, procedures, or guidelines adopted by the Office of Information Technology ~~Services or the Information Resources Management Commission, Services,~~ those deviations shall be allowed and shall be reported in writing within 15 days by the Department of Revenue to the ~~Information Resources Management Commission, State CIO.~~ The Department of Revenue and the Office of Information Technology Services shall develop data communications

capabilities between the two computer centers utilizing the North Carolina Integrated Network, subject to a security review by the Secretary of Revenue.

(c) The Department of Revenue shall prepare a plan to allow for substantial recovery and operation of major, critical computer applications. The plan shall include the names of the computer programs, databases, and data communications capabilities, identify the maximum amount of outage that can occur prior to the initiation of the plan and resumption of operation. The plan shall be consistent with commonly accepted practices for disaster recovery in the information processing industry. The plan shall be tested as soon as practical, but not later than six months, after the establishment of the Department of Revenue information processing capability.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, the Department of Revenue shall review and evaluate any deviations and shall, in consultation with the Office of Information Technology Services, adopt a plan to phase out any deviations that are not determined to be necessary in carrying out functions and responsibilities unique to the Department. The plan adopted by the Department shall include a strategy to coordinate its general information processing functions with the Office of Information Technology Services in the manner prescribed by G.S. 147-33.83(a) and provide for its compliance with policies, procedures, and guidelines adopted by the Office of Information Technology Services. The Department of Revenue shall submit its plan to the Office of State Budget and Management by January 15, 2005."

SECTION 17. G.S. 147-33.85 is repealed.

SECTION 18. G.S. 147-33.86 is repealed.

SECTION 19. G.S. 147-33.87 reads as rewritten:

"§ 147-33.87. Financial reporting and accountability for information technology investments and expenditures.

The Office of Information Technology Services, the Office of State Budget and Management, and the Office of the State Controller shall jointly develop a system for budgeting and accounting of expenditures for information technology operations, services, projects, infrastructure, and assets. The system shall include hardware, software, personnel, training, contractual services, and other items relevant to information technology, and the sources of funding for each. ~~This system must integrate seamlessly with the enterprise portfolio management system.~~ Annual reports regarding information technology shall be coordinated by the Office with the Office of State Budget and Management and the Office of the State Controller, and submitted to the ~~Governor, General Assembly, and the Information Resources Management Commission~~ Governor and the General Assembly on or before October 1 of each year."

SECTION 20. G.S. 147-33.88 reads as rewritten:

"§ 147-33.88. Information technology reports.

(a) The Office shall develop an annual budget for review and approval by the ~~Information Resources Management Commission~~ Office of State Budget and Management prior to April 1 of each year. ~~A copy of the approved budget shall be submitted to the Joint Select Committee on Information Technology and the Fiscal Research Division.~~

(b) The Office shall report to the Joint ~~Select~~ Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the Office's Internal Service Fund on a quarterly basis, no later than the first day of the second month following the end of the quarter. The report shall include current cash balances, line-item detail on expenditures from the previous quarter, and anticipated expenditures

and revenues. The Office shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on expenditures for the upcoming quarter, projected year-end balance, and the status report on personnel position changes including new positions created and existing positions eliminated. The Office spending reports shall comply with the State Accounting System object codes."

SECTION 21. G.S. 147-33.89(b) reads as rewritten:

"(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 22. G.S. 147-33.90 reads as rewritten:

"§ 147-33.90. Analysis of State agency legacy systems.

(a) The Office of Information Technology ~~Services, in conjunction with the Information Resources Management Commission, Services~~ 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 23. G.S. 147-33.91 reads as rewritten:

"§ 147-33.91. Telecommunications services; duties of State Chief Information Officer with respect to State agencies.

(a) With respect to State agencies, the State Chief Information Officer shall exercise general coordinating authority for all telecommunications matters relating to the internal management and operations of those agencies. In discharging that responsibility, the State Chief Information ~~Officer may~~ Officer, in cooperation with

affected State agency heads, ~~do such of the following things as the State Chief Information Officer deems necessary and advisable; may:~~

- (1) Provide for the establishment, management, and operation, through either State ~~ownership~~ ownership, contract, or commercial leasing, of the following systems and services as they affect the internal management and operation of State agencies:
 - a. Central telephone systems and telephone ~~networks;~~ networks.
 - b. ~~Teleprocessing systems;~~
 - e. ~~Teletype and facsimile services;~~
 - d. Satellite ~~services;~~ services.
 - e. Closed-circuit TV ~~systems;~~ systems.
 - f. Two-way radio ~~systems;~~ systems.
 - g. Microwave ~~systems;~~ and systems.
 - h. Related systems based on telecommunication technologies.
 - i. The 'State Network', managed by the Office, which means any connectivity designed for the purpose of providing Internet Protocol transport of information to any building.
- (2) ~~With the approval of the Information Resources Management Commission, coordinate~~ Coordinate the development of cost-sharing systems for respective user agencies for their proportionate parts of the cost of maintenance and operation of the systems and services listed in subdivision (1) of this ~~section.~~ subsection.
- (3) Assist in the development of coordinated telecommunications services or systems within and among all State agencies and recommend, where appropriate, cooperative utilization of telecommunication facilities by aggregating users.
- (4) Perform traffic analysis and engineering for all telecommunications services and systems listed in subdivision (1) of this subsection.
- (5) Pursuant to G.S. 143-49, establish telecommunications specifications and designs so as to promote and support compatibility of the systems within State agencies.
- (6) Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review of requests by State agencies for the procurement of telecommunications systems or services.
- (7) Pursuant to G.S. 143-341 and Chapter 146 of the General Statutes, coordinate the review of requests by State agencies for State government property acquisition, disposition, or construction for telecommunications systems requirements.
- (8) Provide a periodic inventory of telecommunications costs, facilities, systems, and personnel within State agencies.
- (9) Promote, coordinate, and assist in the design and engineering of emergency telecommunications systems, including, but not limited to, the 911 emergency telephone number program, Emergency Medical Services, and other emergency telecommunications services.
- (10) Perform frequency coordination and management for State agencies and local governments, including all public safety radio service frequencies, in accordance with the rules and regulations of the Federal Communications Commission or any successor federal agency.

- (11) Advise all State agencies on telecommunications management planning and related matters and provide through the State Personnel Training Center or the Office of Information Technology Services training to users within State agencies in telecommunications technology and systems.
- (12) Assist and coordinate the development of policies and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems, and base such policies and plans on current information about State telecommunications activities in relation to the full range of emerging technologies.
- (13) Work cooperatively with the North Carolina Agency for Public Telecommunications in furthering the purpose of this section.

(b) The provisions of this section shall not apply to the Criminal Information Division of the Department of Justice or to the Judicial Information System in the Judicial Department."

SECTION 24. G.S. 147-33.95 reads as rewritten:

"(a) Notwithstanding any other provision of law, the Office of Information Technology Services shall procure all information technology for State agencies. ~~For purposes of this section, agency means any department, institution, commission, committee, board, division, bureau, office, officer, or official of the State, unless specifically exempted in this Article.~~ The Office shall integrate technological review, cost analysis, and procurement for all information technology needs of those State agencies in order to make procurement and implementation of technology more responsive, efficient, and cost-effective. All contract information shall be made a matter of public record after the award of contract. ~~Provided, that trade~~ Trade secrets, test data, similar proprietary information, and security information protected under G.S. 132-6.1(c) may remain confidential.

(b) The Office shall have the authority and responsibility, subject to the provisions of this Part, to:

- (1) Purchase or ~~to contract for, by suitable means, including, but not limited to, negotiations, reverse auctions, and the solicitation, offer, and acceptance of electronic bids, and in conformity with G.S. 143-135.9,~~ for all information technology in the State government, or any of its departments, institutions, or agencies covered by this Part, or to Part. The Office may authorize any department, institution, or State agency covered by this Part to purchase or contract for such information technology. The Office or a State agency may use any authorized means, including negotiations, reverse auctions, and the solicitation, offer, and acceptance of electronic bids. G.S. 143-135.9 shall apply to these procedures.
- (2) Establish processes, specifications, and standards ~~which~~ that shall apply to all information technology to be purchased, licensed, or leased in the State government or any of its departments, institutions, or agencies covered by this Part.
- (3) Comply with the State government-wide technical architecture, as required by the ~~Information Resources Management Commission~~ State CIO.

(c) For purposes of this section, "reverse auction" means a real-time purchasing process in which vendors compete to provide goods or services at the lowest selling price in an open and interactive electronic environment. The vendor's price may be revealed during the reverse auction. The Office may contract with a third-party vendor to conduct the reverse auction.

(d) For purposes of this section, "electronic bidding" means the electronic solicitation and receipt of offers to contract. Offers may be accepted and contracts may be entered by use of electronic bidding.

(e) The Office may use the electronic procurement system established by G.S. 143-48.3 to conduct reverse auctions and electronic bidding. All requirements relating to formal and competitive bids, including advertisement, seal, and signature, are satisfied when a procurement is conducted or a contract is entered in compliance with the reverse auction or electronic bidding requirements established by the Office.

(f) The Office ~~may~~ shall adopt rules consistent with this section."

SECTION 25. G.S. 147-33.101(b) reads as rewritten:

"(b) Prior to submission of any contract for review by the Board of Awards pursuant to this section for any contract for information technology being acquired for the benefit of the Office and not on behalf of any other State agency, the Director of the Budget shall review and approve the procurement to ensure compliance with the established processes, specifications, and standards applicable to all information technology purchased, licensed, or leased in State government, including established procurement processes, and compliance with the State government-wide technical architecture as established by the ~~Information Resources Management Commission~~ State CIO."

SECTION 26. G.S. 147-33.103(b) is repealed.

PART III. OTHER CONFORMING CHANGES.

SECTION 27. G.S. 66-58.12(c) reads as rewritten:

"(c) The fee imposed under subsection (b) of this section must be approved by the ~~Information Resource Management Commission, State Chief Information Officer~~, in consultation with the Joint Legislative Commission on Governmental Operations. The revenue derived from the fee must be credited to a nonreverting agency reserve account. The funds in the account may be expended only for e-commerce initiatives and projects approved by the ~~Information Resource Management Commission, State Chief Information Officer~~, in consultation with the Joint ~~Select~~ Legislative Oversight Committee on Information Technology. For purposes of this subsection, the term 'public agencies' does not include a county, unit, special district, or other political subdivision of government."

SECTION 28. G.S. 66-58.20 reads as rewritten:

"§ 66-58.20. Development and implementation of Web portals; public agency links.

(a) The Office of Information Technology Services (ITS) shall develop the architecture, requirements, and standards for the development, implementation and operation of one or more centralized Web portals that will allow persons to access State government services on a 24-hour basis. ITS shall submit its plan for the implementation of the Web portals to the ~~Information Resource Management Commission (IRMC)~~ State Chief Information Officer for its review and approval. When the plan is approved by the ~~IRMC, State Chief Information Officer~~, ITS shall move forward with development and implementation of the statewide Web Portal system.

(b) Each State department, agency, and institution under the review of the ~~IRMC~~ State Chief Information Officer shall functionally link its Internet or electronic services to a centralized Web portal system established pursuant to subsection (a) of this section."

SECTION 29. G.S. 115C-102.6B reads as rewritten:

"§ 115C-102.6B. Approval of State school technology plan.

(a) The Commission shall present the State school technology plan it develops to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee for their comments prior to January 1, 1995. At least every two years thereafter, the Commission shall develop any necessary modifications to the State school technology plan and present them to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee.

(b) After presenting the plan or any proposed modifications to the plan to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee, the Commission shall submit the plan or any proposed modifications to (i) the ~~Information Resources Management Commission~~ State Chief Information Officer for approval of the technical components of the plan set out in G.S. 115C-102.6A(1) through (4), and (ii) the State Board of Education for information purposes only. The State Board shall adopt a plan that includes the components of a plan set out in G.S. 115C-103.6A(1) through (16).

At least one-fourth of the members of any technical committee that reviews the plan for the ~~Information Resources Management Commission~~ State Chief Information Officer shall be people actively involved in primary or secondary education.

(c) If no changes are made to the plan or the proposed modifications to the plan after the submission to the ~~Information Resources Management Commission~~ State Chief Information Officer and the State Board of Education, the plan or the proposed modifications shall take effect upon approval by the ~~Information Resources Management Commission~~ State Chief Information Officer and the State Board of Education."

SECTION 30. G.S. 115C-102.6C(a) reads as rewritten:

"§ 115C-102.6C. Approval of local school system technology plans.

(a) Each local board of education shall develop a local school system technology plan that meets the requirements of the State school technology plan. In developing a local school system technology plan, a local board of education is encouraged to coordinate its planning with other agencies of State and local government, including other local school administrative units.

The ~~Information Resources Management Commission~~ Office of Information Technology Services shall assist the local boards of education in developing the parts of the plan related to its technological aspects, to the extent that resources are available to do so. The Department of Public Instruction shall assist the local boards of education in developing the instructional and technological aspects of the plan.

Each local board of education shall submit the local plan it develops to the ~~Information Resources Management Commission~~ Office of Information Technology Services for its evaluation of the parts of the plan related to its technological aspects and to the Department of Public Instruction for its evaluation of the instructional aspects of the plan. The State Board of Education, after consideration of the evaluations of the ~~Information Resources Management Commission~~ Office of Information Technology

Services and the Department of Public Instruction, shall approve all local plans that comply with the requirements of the State school technology plan."

SECTION 31. G.S. 115C-102.7(b) reads as rewritten:

"(b) The Commission shall provide notice of meetings, copies of minutes, and periodic briefings to the ~~chair of the Information Resources Management Commission and the chair of the Technical Committee of the Information Resources Management Commission~~. Office of Information Technology Services."

SECTION 32. G.S. 115C-102.15(b)(16) reads as rewritten:

"(b) The Business and Education Technology Alliance shall be composed of 27 members who have knowledge and interest in ensuring that the effective use of technology is built into the North Carolina School System for the purpose of preparing a globally competitive workforce and citizenry for the 21st century. These members shall be appointed as follows:

...
(16) One representative of the ~~Information Resource Management Commission appointed by the Commission's Chair~~. Office of Information Technology Services appointed by the State Chief Information Officer."

SECTION 33. G.S. 115C-472.5(d) reads as rewritten:

"(d) The Department of Public Instruction shall report to the ~~Information Resource Management Commission~~ State Chief Information Officer on an annual basis on all loans made from the fund."

SECTION 34. G.S. 115C-529 reads as rewritten:

"§ 115C-529. Useful life guidelines.

The ~~Information Resource Management Commission~~ State Office of Information Technology Services shall develop and annually revise guidelines for determining the useful life of computers purchased under G.S. 115C-528. The Division of Purchase and Contract shall develop and periodically revise guidelines for determining the useful life of automobiles, school buses, and photocopiers purchased under G.S. 115C-528. The Local Government Commission shall develop and periodically revise guidelines for determining the useful life of mobile classroom units purchased under G.S. 115C-528. Guidelines for computers and photocopiers shall include provisions for upgrades during the term of the contract. The ~~Information Resource Management Commission, State Office of Information Technology Services,~~ the Division of Purchase and Contract, and the Local Government Commission shall provide their respective guidelines to the State Board of Education by November 1, 1996. The State Board of Education shall provide the guidelines to local boards of education by January 1, 1997."

SECTION 35. G.S. 120-123(57) is repealed.

SECTION 36. G.S. 120-231(b) reads as rewritten:

"(b) The Committee may consult with the ~~Information Resource Management Commission~~ State Chief Information Officer on statewide technology strategies and initiatives and review all legislative proposals and other recommendations of the ~~Information Resource Management Commission~~. State Chief Information Officer."

SECTION 37. G.S. 126-5(c1)(17) is repealed.

SECTION 38. G.S. 132-6.2(b) reads as rewritten:

"(b) Persons requesting copies of public records may request that the copies be certified or uncertified. The fees for certifying copies of public records shall be as provided by law. Except as otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public record that exceeds the actual cost to the public

agency of making the copy. For purposes of this subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been incurred by the public agency if a request to reproduce a public record had not been made. Notwithstanding the provisions of this subsection, if the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested, then the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency. If anyone requesting public information from any public agency is charged a fee that the requester believes to be unfair or unreasonable, the requester may ask the ~~Information Resource Management Commission~~ State Chief Information Officer or his designee to mediate the dispute."

SECTION 39. G.S. 143-6 reads as rewritten:

"(b2) Any department, bureau, division, officer, board, commission, institution, or other State agency or undertaking desiring to request financial aid from the State for the purpose of acquiring or maintaining information technology as defined by G.S. 147-33.81(2) shall, before making the request for State financial aid, submit to the State Chief Information Officer (~~CIO~~)(State CIO) a statement of its needs in terms of information technology and other related requirements and shall furnish the State CIO with any additional information requested by the State CIO. The CIO shall then review the statement of needs ~~submitted by the requesting department, bureau, division, officer, board, commission, institution, or other State agency or undertaking~~ and perform additional analysis, as necessary, to comply with ~~G.S. 147-33.82~~. Article 3D of Chapter 147 of the General Statutes. All requests for financial aid for the purpose of acquiring or maintaining information technology shall be accompanied by a certification from the State CIO deeming the request for financial aid to be consistent with Article 3D of Chapter 147 of the General Statutes. The State CIO shall make recommendations to the Governor regarding the merits of requests for financial aid for the purpose of acquiring or maintaining information technology. This subsection shall not apply to requests for appropriations of less than one hundred thousand dollars (\$100,000)."

SECTION 40. G.S. 143-48.3(a1) reads as rewritten:

"(a1) The Department of Administration shall comply with the State government-wide technical architecture for information technology, as required by the ~~Information Resources Management Commission~~ State Chief Information Officer."

SECTION 40A. G.S. 143-48.3(e) reads as rewritten:

"(e) The Board of Governors of The University of North Carolina shall exempt North Carolina State University and The University of North Carolina at Chapel Hill from the electronic procurement system authorized by this Article until May 1, 2003. Each exemption shall be subject to the Board of Governors' annual review and reconsideration. Exempted constituent institutions shall continue working with the North Carolina E-Procurement Service as that system evolves and shall ensure that their proposed procurement systems are compatible with the North Carolina E-Procurement Service so that they may take advantage of this service to the greatest degree possible.

Before an exempted institution expands any electronic procurement system, that institution shall consult with the Joint Legislative Commission on Governmental Operations and the Joint ~~Select~~ Legislative Oversight Committee on Information Technology. By May 1, 2003, the General Assembly shall evaluate the efficacy of the State's electronic procurement system and the inclusion and participation of entities in the system."

SECTION 41. G.S. 143-48.3(f) reads as rewritten:

"(f) Any State entity, local school administrative unit, 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 Office of Information Technology Services ~~Information Resources Management Commission~~ by January 1, 2002, and annually thereafter, of by January 1 of each year of its intent to participate in the North Carolina E-Procurement Service."

SECTION 41A. G.S. 143-52.1(e) reads as rewritten:

"(e) Reports on recommendations made by the Board on matters presented by the State Chief Information Officer to the Board shall be reported monthly by the Board to the chairs of the Joint ~~Select~~ Legislative Oversight Committee on Information Technology."

SECTION 42. G.S. 143-661(b)(5) reads as rewritten:

"(b) The Board shall consist of 21 members, appointed as follows:

...
 (5) One member appointed by the ~~Chair of the Information Resource Management Commission, who is the Chair or a member of that Commission, for a term to begin on September 1, 1996 and to expire on June 30, 1999.~~ State Chief Information Officer."

SECTION 43. G.S. 143-663(a)(2) reads as rewritten:

"§ 143-663. Powers and duties.

(a) The Board shall have the following powers and duties:

...
 (2) To develop and adopt uniform standards and cost-effective information technology, after thorough evaluation of the capacity of information technology to meet the present and future needs of the State and, in consultation with the ~~Information Resource Management Commission,~~ Office of Information Technology Services, to develop and adopt standards for entering, storing, and transmitting information in criminal justice databases and for achieving maximum compatibility among user technologies."

SECTION 44. G.S. 143-725(a) reads as rewritten:

"§ 143-725. Council established; role of the Center for Geographic Information and Analysis.

(a) Council Established. – The North Carolina Geographic Information Coordinating Council ("Council") is established to develop policies regarding the utilization of geographic information, GIS systems, and other related technologies. The Council shall be responsible for the following:

- (1) Strategic planning.
- (2) Resolution of policy and technology issues.
- (3) Coordination, direction, and oversight of State, local, and private GIS efforts.

- (4) Advising the Governor, the General Assembly, and the ~~Information Resource Management Commission (IRMC)~~ State Chief Information Officer as to needed directions, responsibilities, and funding regarding geographic information.

The purpose of this statewide geographic information coordination effort shall be to further cooperation among State, federal, and local government agencies; academic institutions; and the private sector to improve the quality, access, cost-effectiveness, and utility of North Carolina's geographic information and to promote geographic information as a strategic resource in the State. The Council shall be located in the Office of the Governor for organizational, budgetary, and administrative purposes."

SECTION 45. G.S. 143B-146.13 reads as rewritten:

"§ 143B-146.13. School technology plan.

(a) No later than December 15, 1998, the Secretary shall develop a school technology plan for the residential schools that meets the requirements of the State school technology plan. In developing a school technology plan, the Secretary is encouraged to coordinate its planning with other agencies of State and local government, including local school administrative units.

The ~~Information Resources Management Commission~~ Office of Information Technology Services shall assist the Secretary in developing the parts of the plan related to its technological aspects, to the extent that resources are available to do so. The Department of Public Instruction shall assist the Secretary in developing the instructional and technological aspects of the plan.

The Secretary shall submit the plan that is developed to the ~~Information Resources Management Commission~~ Office of Information Technology Services for its evaluation of the parts of the plan related to its technological aspects and to the Department of Public Instruction for its evaluation of the instructional aspects of the plan. The State Board of Education, after consideration of the evaluations of the ~~Information Resources Management Commission~~ Office of Information Technology Services and the Department of Public Instruction, shall approve all plans that comply with the requirements of the State school technology plan."

SECTION 45A. G.S. 143B-437.47(e) reads as rewritten:

"(e) Reports. – The Authority shall submit quarterly reports to the Governor, the Joint ~~Select Legislative Oversight~~ 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 46. G.S. 147-64.6(b)(18) reads as rewritten:

"(b) The Auditor shall be responsible for the following acts and activities:

- ...
- (18) The Auditor shall, after consultation and in coordination with the State Chief Information Officer, assess, confirm, and report on the security practices of information technology systems. If an agency has adopted standards pursuant to ~~G.S. 147-33.82(d)(1) or (2)~~, G.S. 147-33.111(a), the audit shall be in accordance with those standards. The Auditor's assessment of information security practices shall include an assessment of network vulnerability. The Auditor may conduct network penetration or any similar procedure as the Auditor may deem necessary. The Auditor may enter into a contract with a State agency

under ~~G.S. 147-33.82(d)(3)~~ G.S. 147-33.111(c) for an assessment of network vulnerability, including network penetration or any similar procedure. Any contract with the Auditor for the assessment and testing shall be on a cost-reimbursement basis. The Auditor may investigate reported information technology security breaches, cyber attacks, and cyber fraud in State government. The Auditor shall issue public reports on the general results of the reviews undertaken pursuant to this subdivision but may provide agencies with detailed reports of the security issues identified pursuant to this subdivision which shall not be disclosed as provided in G.S. 132-6.1(c). The Auditor shall provide the State Chief Information Officer with detailed reports of the security issues identified pursuant to this subdivision. For the purposes of this subdivision only, the Auditor is exempt from the provisions of Article 3 of Chapter 143 of the General Statutes in retaining contractors."

SECTION 46A. G.S. 147-68(d2) reads as rewritten:

"(d2) After consulting with the Select Committee on Information Technology and the Joint Legislative Commission on Governmental Operations and after consultation with and approval of the Information Resources Management Commission, the Department of State Treasurer may spend departmental receipts for the 2000-2001 fiscal year to continue improvement of the Department's investment banking operations system, retirement payroll systems, and other information technology infrastructure needs. The Department of State Treasurer shall report by January 1, 2001, and annually thereafter to the following regarding the amount and use of the departmental receipts: the Joint Legislative Commission on Governmental Operations, the Chairs of the General Government Appropriations Subcommittees of both the House of Representatives and the Senate, and the ~~Select~~ Joint Legislative Committee on Information Technology."

PART IV. STUDIES.

SECTION 47.(a) Each State agency, with the exception of The University of North Carolina and its constituent institutions, the Administrative Office of the Courts, and the General Assembly shall conduct a thorough, agencywide 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, the State CIO, the Office of State Budget and Management, and the State Controller to readily determine the amount of State funds being expended annually on each and all IT functions. As part of this examination, each agency 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. Each agency shall also identify IT functions that could be performed more economically through statewide approach across all agencies. Each agency shall report its plan in a format developed and approved by the State CIO and the Office of State Budget and Management. Reports shall be submitted to the Office of State Budget and Management and the State CIO on or before March 1, 2005.

SECTION 47.(b) The Office of State Budget and Management, in conjunction with the State CIO, the Information Technology Advisory Board, and the State Controller, shall develop a plan to consolidate information technology infrastructure, staffing, and expenditures where a statewide approach would be more economical. The plan shall not include The University of North Carolina and its

constituent institutions, the Administrative Office of the Courts, and the General Assembly. The plan shall consider agency-specific program needs. The plan shall include specific recommendations to convert contractor FTE to State positions for recurring activities where the contractor positions have been filled for 12 months, beginning July 1, 2003. In developing the recommendations for converting contractor positions, the OSBM shall consider the nature of the work being performed by the contractors, the level of technical expertise required for the work, and whether the use of State positions would be more economical. The plan also shall identify agencies that lack the budgetary and technical resources to operate modern, secure information technology systems, and propose a method of consolidating those information technology systems under a centralized authority, with the approval of the agency. The OSBM shall use reports compiled by each State agency, as required by subsection (a) of this section, in the development of the plan. The office shall report the plan to the Joint Legislative Commission on Governmental Operations on or before January 1, 2006.

PART V. APPLICABILITY AND EFFECTIVE DATE.

SECTION 48. Nothing in this act shall be construed to require a State agency that has issued a request for proposals for an information technology project approved by the Information Resources Management Commission to seek approval of the information technology project by the State Chief Information Officer under G.S. 147-33.72C or otherwise revise the request for proposals.

SECTION 49. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 10:31 a.m. on the 27th day of July, 2004.

S.B. 1058

Session Law 2004-130

AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE AND TO AUTHORIZE IN-STATE TUITION FOR NONRESIDENT MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD AND TO CLARIFY LAWS PROHIBITING DISCRIMINATION AGAINST PERSONS WHO SERVE IN THE NORTH CAROLINA NATIONAL GUARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-143.3 reads as rewritten:

"§ 116-143.3. Tuition of active duty personnel in the armed services.

- (a) Definitions. – The following definitions apply in this section:
- (1) 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.
 - (2) 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.

- (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 a community college under the jurisdiction of the State Board of Community Colleges an institution of higher education 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.~~ in-State tuition rate and applicable mandatory fees for enrollments while the member of the armed services is abiding in this State incident to active military duty in this State. In the event the active duty member of the armed services is reassigned outside of North Carolina, the member shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the member is continuously enrolled in the degree or other program in which the member was enrolled at the time the member is reassigned.

~~(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.~~ In the event the member of the armed services is reassigned outside of North Carolina, the dependent relative shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the dependent relative is continuously enrolled in the degree or other program in which the dependent relative was enrolled at the time the member is reassigned.

(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 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 benefit of G.S. 116-143.1(g), (h), (i), (j), (k), or (l)."

SECTION 2. G.S. 116-143.1 reads as rewritten:

"§ 116-143.1. Provisions for determining resident status for tuition purposes.

(a) As defined under this section:

- (1) A "legal resident" or "resident" is a person who qualifies as a domiciliary of North Carolina; a "nonresident" is a person who does not qualify as a domiciliary of North Carolina.
- (2) A "resident for tuition purposes" is a person who qualifies for the in-State tuition rate; a "nonresident for tuition purposes" is a person who does not qualify for the in-State tuition rate.
- (3) "Institution of higher education" means any of the constituent institutions of the University of North Carolina and the community colleges under the jurisdiction of the State Board of Community Colleges.

(b) To qualify as a resident for tuition purposes, a person must have established legal residence (domicile) in North Carolina and maintained that legal residence for at least 12 months immediately prior to his or her classification as a resident for tuition purposes. Every applicant for admission shall be required to make a statement as to his length of residence in the State.

(c) To be eligible for classification as a resident for tuition purposes, a person must establish that his or her presence in the State currently is, and during the requisite 12-month qualifying period was, for purposes of maintaining a bona fide domicile rather than of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

(d) An individual shall not be classified as a resident for tuition purposes and, thus, not rendered eligible to receive the in-State tuition rate, until he or she has provided such evidence related to legal residence and its duration as may be required by officials of the institution of higher education from which the individual seeks the in-State tuition rate.

(e) When an individual presents evidence that the individual has living parent(s) or court-appointed guardian of the person, the legal residence of such parent(s) or guardian shall be prima facie evidence of the individual's legal residence, which may be reinforced or rebutted relative to the age and general circumstances of the individual by the other evidence of legal residence required of or presented by the individual; provided, that the legal residence of an individual whose parents are domiciled outside this State shall not be prima facie evidence of the individual's legal residence if the individual has lived in this State the five consecutive years prior to enrolling or reregistering at the institution of higher education at which resident status for tuition purposes is sought.

(f) In making domiciliary determinations related to the classification of persons as residents or nonresidents for tuition purposes, the domicile of a married person, irrespective of sex, shall be determined, as in the case of an unmarried person, by reference to all relevant evidence of domiciliary intent. For purposes of this section:

- (1) No person shall be precluded solely by reason of marriage to a person domiciled outside North Carolina from establishing or maintaining legal residence in North Carolina and subsequently qualifying or continuing to qualify as a resident for tuition purposes;

- (2) No persons shall be deemed solely by reason of marriage to a person domiciled in North Carolina to have established or maintained a legal residence in North Carolina and subsequently to have qualified or continued to qualify as a resident for tuition purposes;
- (3) In determining the domicile of a married person, irrespective of sex, the fact of marriage and the place of domicile of his or her spouse shall be deemed relevant evidence to be considered in ascertaining domiciliary intent.

(g) Any nonresident person, irrespective of sex, who marries a legal resident of this State or marries one who later becomes a legal resident, may, upon becoming a legal resident of this State, accede to the benefit of the spouse's immediately precedent duration as a legal resident for purposes of satisfying the 12-month durational requirement of this section.

(h) No person shall lose his or her resident status for tuition purposes solely by reason of serving in the armed forces outside this State.

(h1) Any member of a North Carolina National Guard unit who is a nonresident 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. This subsection applies to members in a reserve or active duty status.

(i) A person who, having acquired bona fide legal residence in North Carolina, has been classified as a resident for tuition purposes but who, while enrolled in a State institution of higher education, loses North Carolina legal residence, shall continue to enjoy the in-State tuition rate for a statutory grace period. This grace period shall be measured from the date on which the culminating circumstances arose that caused loss of legal residence and shall continue for 12 months; provided, that a resident's marriage to a person domiciled outside of North Carolina shall not be deemed a culminating circumstance even when said resident's spouse continues to be domiciled outside of North Carolina; and provided, further, that if the 12-month period ends during a semester or academic term in which such a former resident is enrolled at a State institution of higher education, such grace period shall extend, in addition, to the end of that semester or academic term.

(j) Notwithstanding the prima facie evidence of legal residence of an individual derived pursuant to subsection (e), notwithstanding the presumptions of the legal residence of a minor established by common law, and notwithstanding the authority of a judicially determined custody award of a minor, for purposes of this section, the legal residence of a minor whose parents are divorced, separated, or otherwise living apart shall be deemed to be North Carolina for the time period relative to which either parent is entitled to claim and does in fact claim the minor as a dependent for North Carolina individual income tax purposes. The provisions of this subsection shall pertain only to a minor who is claimed as a dependent by a North Carolina legal resident.

Any person who immediately prior to his or her eighteenth birthday would have been deemed under this subsection a North Carolina legal resident but who achieves majority before enrolling at an institution of higher education shall not lose the benefit of this subsection if that person:

- (1) Upon achieving majority, acts, to the extent that the person's degree of actual emancipation permits, in a manner consistent with bona fide legal residence in North Carolina; and

- (2) Begins enrollment at an institution of higher education not later than the fall academic term next following completion of education prerequisite to admission at such institution.

(k) Notwithstanding other provisions of this section, a minor who satisfies the following conditions immediately prior to commencement of an enrolled term at an institution of higher education, shall be accorded resident tuition status for that term:

- (1) The minor has lived for five or more consecutive years continuing to such term in North Carolina in the home of an adult relative other than a parent, domiciled in this State; and
- (2) The adult relative has functioned during those years as a de facto guardian of the minor and exercised day-to-day care, supervision, and control of the minor.

A person who immediately prior to his or her eighteenth birthday qualified for or was accorded resident status for tuition purposes pursuant to this subsection shall be deemed upon achieving majority to be a legal resident of North Carolina of at least 12 months' duration; provided, that the legal residence of such an adult person shall be deemed to continue in North Carolina only so long as the person does not abandon legal residence in this State.

(l) Any person who ceases to be enrolled at or graduates from an institution of higher education while classified as a resident for tuition purposes and subsequently abandons North Carolina domicile shall be permitted to reenroll at an institution of higher education as a resident for tuition purposes without necessity of meeting the 12-month durational requirement of this section if the person reestablishes North Carolina domicile within 12 months of abandonment of North Carolina domicile and continuously maintains the reestablished North Carolina domicile at least through the beginning of the academic term(s) for which in-State tuition status is sought. The benefit of this subsection shall be accorded not more than once to any one person."

SECTION 3. G.S. 127A-202.1 is amended by adding a new subsection to read:

"(f) This section shall also apply when a member of the North Carolina National Guard is called into active duty at the direction of the President, the Governor, or by any other competent authority."

SECTION 4. This act becomes effective August 1, 2004.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 11:20 a.m. on the 29th day of July, 2004.

S.B. 1144

Session Law 2004-131

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN "IN GOD WE TRUST" SPECIAL REGISTRATION PLATE WITH THE PROCEEDS GOING TO THE AUBREY MCLELLAN SOLDIER AND AIRMAN ASSISTANCE FUND FOR FAMILIES OF DEPLOYED NORTH CAROLINA NATIONAL GUARDSMEN.

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".

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 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.
- (6) In God We Trust.

SECTION 2. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

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

...
 (19a) In God We Trust. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase 'In God We Trust.'

~~(19a)~~(19b) International Association of Fire Fighters. – Issuable to a member of the International Association of Fire Fighters. The plate shall bear the logo of the International Association of Fire Fighters. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

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

"§ 20-79.7. Fees for special registration plates and distribution of the fees.

(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>
Crystal Coast	\$30.00
Historical Attraction	\$30.00

<u>In God We Trust</u>	\$30.00
Personalized	\$30.00
State Attraction	\$30.00
Buffalo Soldiers	\$25.00
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
Rocky Mountain Elk Foundation	\$25.00
Special Olympics	\$25.00
Surveyor Plate	\$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
Be Active NC	\$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
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
Zeta Phi Beta Sorority	\$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 4. 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), 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>
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Animal Lovers	\$10	\$10	0	0
Audubon North Carolina	\$10	\$10	0	0
Be Active NC	\$10	\$10	0	0
Buffalo Soldiers	\$10	\$15	0	0
Crystal Coast	\$10	\$20	0	0
Ducks Unlimited	\$10	\$10	0	0
First in Forestry	\$10	0	\$10	0
Goodness Grows	\$10	\$15	0	0
Harley Owners' Group	\$10	\$10	0	0
Historical Attraction	\$10	\$20	0	0
<u>In God We Trust</u>	<u>\$10</u>	<u>\$20</u>	<u>0</u>	<u>0</u>
In-State Collegiate Insignia	\$10	\$15	0	0
Kids First	\$10	\$15	0	0
Litter Prevention	\$10	\$10	0	0
March of Dimes	\$10	\$10	0	0
NC Agribusiness	\$10	\$15	0	0
NC Coastal Federation	\$10	\$15	0	0
Nurses	\$10	\$15	0	0
Olympic Games	\$10	\$15	0	0
Omega Psi Phi Fraternity	\$10	\$10	0	0
Out-of-state Collegiate Insignia	\$10	0	\$15	0
Personalized	\$10	0	\$15	\$5
Rocky Mountain Elk Foundation	\$10	\$15	0	0
Save the Sea Turtles	\$10	\$10	0	0
Scenic Rivers	\$10	\$10	0	0
School Technology	\$10	\$10	0	0
Soil and Water Conservation	\$10	\$10	0	0
Special Forces Association	\$10	\$10	0	0
Special Olympics	\$10	\$15	0	0
State Attraction	\$10	\$20	0	0
Support Public Schools	\$10	\$10	0	0
Surveyor Plate	\$10	\$15	0	0
The V Foundation for Cancer Research	\$10	\$15	0	0
University Health Systems of Eastern Carolina	\$10	\$15	0	0
Wildlife Resources	\$10	\$10	0	0
Zeta Phi Beta Sorority	\$10	\$10	0	0
All other Special Plates	\$10	0	0	0."

SECTION 5. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b31) In God We Trust. – The Division must receive 300 or more applications for the In God We Trust 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 In God We Trust plates to the Department of Crime Control and Public Safety to be deposited into The N.C. National Guard Soldiers and Airmen Assistance Fund of The Minuteman Partnership to help provide assistance to the

families of North Carolina National Guardsmen who have been activated and deployed in federal service."

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2004.

Became law upon approval of the Governor at 11:22 a.m. on the 29th day of July, 2004.

S.B. 1063

Session Law 2004-132

AN ACT TO ELIMINATE THE WAGE STANDARD FOR INDUSTRIAL REVENUE BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159C-7(b) reads as rewritten:

"(b) Findings. – The Secretary shall not approve any proposed industrial project or pollution control project unless the Secretary makes all of the following, applicable findings:

- (1) In the case of a proposed industrial project,
 - a. ~~That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county, or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and~~
 - b. ~~That~~that the proposed project will not have a materially adverse effect on the environment.
- (2) In the case of a proposed pollution control project, that the project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur.
- (2a) In the case of a hazardous waste facility or low-level radioactive waste facility that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.
- (3) In the case of an industrial project or a pollution control project, except a pollution control project for a public utility,
 - a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,
 - b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate the project, and
 - c. That the financing of the project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned

because of obsolescence, lack of available labor in the area, or site limitations."

SECTION 2. G.S. 159D-7(b) reads as rewritten:

"(b) Findings. – The Secretary shall not approve any proposed project unless the Secretary makes all of the following, applicable findings:

- (1) In the case of a proposed industrial project,
 - a. ~~That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county in which the project is to be located or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State; and~~
 - b. ~~That~~that the proposed project will not have a materially adverse effect on the environment.
- (2) In the case of a proposed pollution control project, that such project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur.
- (2a) In the case of a hazardous waste facility or low-level radioactive waste facility that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.
- (3) In any case (whether the proposed project is an industrial or a pollution control project),
 - a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,
 - b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and
 - c. That the financing of such project by the agency will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations."

SECTION 3. The Department of Commerce shall encourage projects applying for industrial revenue bonds under Chapter 159C or Chapter 159D of the General Statutes to locate the projects in development zones.

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

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law upon approval of the Governor at 12:17 p.m. on the 29th day of July, 2004.

AN ACT REQUIRING A PERSON TO PAY ANY OUTSTANDING RESTITUTION ORDERS PRIOR TO THE EXPUNCTION OF THE PERSON'S CRIMINAL RECORD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-145 reads as rewritten:

"§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of conviction of misdemeanor; expunction of certain other misdemeanors.

(a) Whenever any person who has (i) not yet attained the age of 18 years and has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, pleads guilty to or is guilty of a misdemeanor other than a traffic violation, or (ii) not yet attained the age of 21 years and has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant to G.S. 18B-302(b)(1), he may file a petition in the court where he was convicted for expunction of the misdemeanor from his criminal record. The petition cannot be filed earlier than two years after the date of the conviction or any period of probation, whichever occurs later, and the petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that he has been of good behavior for the two-year period since the date of conviction of the misdemeanor in question and has not been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States or the laws of this State or any other state.
- (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives and that his character and reputation are good.
- (3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted and, if different, the county of which the petitioner is a resident, showing that the petitioner has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to the conviction for the misdemeanor in question or during the two-year period following that conviction.
- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against him are outstanding.

The petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the two-year period that he deems desirable.

(b) If the court, after hearing, finds that the petitioner had remained of good behavior and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two years from the date of conviction of the misdemeanor in question, the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against him, and (i) petitioner was not 18 years old at the time of the conviction in question, or (ii) petitioner was not 21 years old at the time of the conviction of possession of alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be restored, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made of him for any purpose.

(c) The court shall also order that the said misdemeanor conviction be expunged from the records of the court, and direct all law-enforcement agencies bearing record of the same to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency. The sheriff, chief or head of such other arresting agency shall then transmit the copy of the order with a form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation.

(d) The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the Administrative Office of the Courts, the names of those persons granted a discharge under the provisions of this section, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons granted conditional discharges. The information contained in such file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense has been previously granted a discharge.

(e) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of sixty-five dollars (\$65.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 2. This act becomes effective September 1, 2004, and applies to petitions for expunction filed on or after that date.

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law upon approval of the Governor at 12:19 p.m. on the 29th day of July, 2004.

AN ACT TO DELAY THE IMPOSITION ON PARTNERSHIPS OF THE DOLLAR AMOUNT LIMITATION ON THE CREDIT ALLOWED FOR REAL PROPERTY DONATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2001-335 reads as rewritten:

"**SECTION 3.** This act becomes effective for taxable years beginning on or after January 1, 2002. Section 2 of this act expires for taxable years beginning on or after January 1, ~~2005-2006.~~"

SECTION 2.(a) The Revenue Laws Study Committee may study the credits amended by this act, G.S. 105-130.34, and G.S. 105-151.12. The study may address the following issues:

- (1) The coordination between the Department of Environment and Natural Resources and the Department of Revenue in administering the credits.
- (2) The criteria by which the Department of Environment and Natural Resources determines whether a donation provides public benefits.
- (3) The integrity of appraisals submitted by donors and procedures for preventing abuse of the credits.
- (4) Qualifications and certifications of the government and nonprofit agencies that receive the donations.
- (5) Long-term stewardship of conservation easements.
- (6) Rising land prices and the effect of the credit caps on the amount of credit that can be claimed.
- (7) Options for carryforward, refundability, and transfer of the credits.
- (8) Any other issues the Committee considers relevant to tax incentives for encouraging farmers, landowners, and developers to conserve land.

SECTION 2.(b) The Revenue Laws Study Committee shall report the results of its study to the 2005 General Assembly by February 1, 2005.

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

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law upon approval of the Governor at 12:20 p.m. on the 29th day of July, 2004.

AN ACT CONCERNING WINERY PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101(7) and G.S. 18B-101(15) read as rewritten:

"§ 18B-101. Definitions.

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

- ...
- (7) "Fortified wine" means any ~~wine made by fermentation from grapes, fruits, berries, rice, or honey, to which nothing has been added other than pure brandy made from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine, and which has an alcoholic~~

~~content of not more than twenty-four percent (24%) alcohol by volume. wine, of more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.~~

- ...
- (15) "Unfortified wine" means any wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar. of sixteen percent (16%) or less alcohol by volume made by fermentation from pure grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States."

SECTION 2. G.S. 18B-1101(6) and G.S. 18B-1101(7) read as rewritten, and a new G.S. 18B-1101(6a) is enacted, as follows:

"§ 18B-1101. Authorization of unfortified winery permit.

The holder of an unfortified winery permit may:

- ...
- (6) Sell the wine owned by the winery for on- or off-premise consumption at no more than three other locations in the State, upon obtaining the appropriate permit under G.S. ~~18B-1001; and 18B-1001;~~
- (6a) Receive, in closed containers, and sell at the winery, unfortified wine produced inside or outside North Carolina under contract with the winery. Such contract wine must have the winery's name clearly displayed on each bottle. The contract wine may be sold also at affiliated retail outlets of the winery physically located on or adjacent to the winery. Any wine received by a winery under this provision must be made available for sale by the winery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the wine were being imported by the winery;
- (7) Obtain a wine wholesaler permit to sell, deliver, and ship at wholesale unfortified wine manufactured at the winery. The authorization of this subdivision applies only to a winery that annually sells, to persons other than exporters and nonresident wholesalers when the purchase is not for resale in this State, no more than ~~300,000~~ 100,000 gallons of unfortified wine manufactured by it at the winery."

..."

SECTION 3. G.S. 105-113.68(a)(5) and G.S. 105-113.68(a)(12) read as rewritten:

"(a) Definitions. – As used in this Article, unless the context clearly requires otherwise:

- ...
- (5) "Fortified wine" means ~~a wine made by fermentation from grapes, fruits, berries, rice, or honey, to which nothing has been added other than pure brandy made from the same type of grape, fruit, berry, rice,~~

~~or honey that is contained in the base wine, and which has an alcoholic content of not more than twenty-four percent (24%) alcohol by volume.~~ any wine, of more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

- ...
- (12) "Unfortified wine" means ~~wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar.~~ any wine of sixteen percent (16%) or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine, and produced in accordance with the regulations of the United States."

SECTION 4. G.S. 18B-800(b) reads as rewritten:

"(b) Fortified Wine. – In addition to spirituous liquor, ABC stores may sell fortified wine. ABC stores may also sell wine products, irrespective of alcohol content by volume, which were classified as fortified wine by the ABC Commission prior to July 7, 2004."

SECTION 5. This act becomes effective October 1, 2004.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 12:20 p.m. on the 29th day of July, 2004.

H.B. 1513

Session Law 2004-136

AN ACT TO INCREASE THE MAXIMUM DEATH BENEFIT PAYABLE FROM THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-27(l) reads as rewritten:

"(l) Death Benefit Plan. – The provisions of this subsection shall become effective for any employer only after an agreement to that effect has been executed by the employer and the Director of the Retirement System. There is hereby created a Group Life Insurance Plan (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the

member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

- (1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or
- (2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;
- (3) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2; subject to a ~~maximum of twenty thousand dollars (\$20,000)~~. minimum of twenty-five thousand dollars (\$25,000) and a maximum of fifty thousand dollars (\$50,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed 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 death benefit provided in this subsection shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

- (1) After June 30, 1969 and after he has attained age 70; or
- (2) After December 31, 1969 and after he has attained age 69; or
- (3) After December 31, 1970 and after he has attained age 68; or
- (4) After December 31, 1971 and after he has attained age 67; or
- (5) After December 31, 1972 and after he has attained age 66; or
- (6) After December 31, 1973 and after he has attained age 65; or
- (7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained age 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

- (1) For the purpose of determining eligibility only, in this subsection "calendar year" shall mean any period of 12 consecutive months. For all other purposes in this subsection "calendar year" shall mean the 12 months beginning January 1 and ending December 31.
- (2) Last day of actual service shall be:
 - a. When employment has been terminated, the last day the member actually worked.
 - b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire.
- (3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 128-26(g).
- (4) A member on leave of absence from his position as a local governmental employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit, if applicable. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a local governmental employee during the 12-month period immediately prior to the month in which death occurred, not to ~~exceed twenty thousand dollars (\$20,000)~~ be less than twenty-five thousand dollars (\$25,000) nor to exceed fifty thousand dollars (\$50,000).

The provisions of the Retirement System pertaining to administration, G.S. 128-28, and management of funds, G.S. 128-29, are hereby made applicable to the Plan."

SECTION 2. This act becomes effective July 1, 2004, and applies to persons dying on or after that date.

In the General Assembly read three times and ratified this the 12th day of July, 2004.

Became law upon approval of the Governor at 12:21 p.m. on the 29th day of July, 2004.

S.B. 1312

Session Law 2004-137

AN ACT TO AUTHORIZE PARTICIPATION IN 457 PLANS BY LOCAL GOVERNMENTAL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-426.24 reads as rewritten:

"§ 143B-426.24. Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan.

(a) The Governor may, by Executive Order, establish a Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan, which when established shall be constituted an agency of the State of North Carolina within the Department of Administration. The Board shall create, establish, implement, coordinate and administer a Deferred Compensation Plan for ~~State employees~~ employees of the State, any county or municipality, the North Carolina Community College System, and any political subdivision of the State. Until so established, the Board heretofore established pursuant

to Executive Order XII dated November 12, 1974, shall continue in effect. Likewise, the Plan heretofore established shall continue until a new plan is established.

(b) The Board shall consist of seven voting members, as follows:

- (1) Three persons shall be appointed by the Governor who shall have experience with taxation, finance and investments, one of whom shall be a State employee;
- (2) One member shall be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives under G.S. 120-121;
- (3) One member shall be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate under G.S. 120-121;
- (4) The State Treasurer, ex officio; and
- (5) The Secretary of Administration, ex officio, chairman.

(c) General Assembly appointments shall serve two year terms. A member shall continue to serve until his successor is duly appointed but a holdover under this provision does not affect the expiration date of the succeeding term. No member of the Board may serve more than three consecutive two year terms.

(d) In case of a vacancy on the Board before the expiration of a member's term, a successor shall be appointed within 30 days of the vacancy for the remainder of the unexpired term by the appropriate official pursuant to subsection (b). Vacancies in legislative appointments shall be filled under G.S. 120-122.

(e) Other than ex officio members, members appointed by the Governor shall serve at his pleasure.

(f) Any ex officio member may designate in writing, filed with the Board, any employee of his department to act at any meeting of the Board from which the member is absent, to the same extent that the member could act if present in person at such meeting.

(g) It shall be the duty of the Board when established to review all contracts, agreements or arrangements then in force relating to G.S. 147-9.2 and Executive Order XII to include, but not be limited to, such contracts, agreements or arrangements pertaining to the administrative services and the investment of deferred funds under the Plan for the purpose of recommending continuation of or changes to such contracts, agreements or arrangements.

(h) It shall be the duty of the Board to devise a uniform Deferred Compensation Plan for teachers and ~~State~~-employees, which shall include a reasonable number of options to the teacher or employee, for the investment of deferred funds, among which may be life insurance, fixed or variable annuities and retirement income contracts, regulated investment trusts, pooled investment funds managed by the Board or its designee, or other forms of investment approved by the Board, always in such form as will assure the desired tax treatment of such funds. The Board may alter, revise and modify the Plan from time to time to improve the Plan or to conform to and comply with requirements of State and federal laws and regulations relating to the deferral of compensation of teachers and public employees generally.

(h1) Notwithstanding any other law, an employee of any county or municipality, an employee of the North Carolina Community College System, or an employee of any political subdivision of the State may participate in any 457 Plan adopted by the State, with the consent of the Board and with the consent of the proper governing authority of

such county, municipality, community college, or political subdivision of the State where such employee is employed.

(i) The Board is authorized to delegate the performance of such of its administrative duties as it deems appropriate including coordination, administration, and marketing of the Plan to teachers and employees. Prior to entering into any contract with respect to such administrative duties, it shall seek bids, hold public hearings and in general take such steps as are calculated by the Board to obtain competent, efficient and worthy services for the performance of such administrative duties.

(j) The Board may acquire investment vehicles from any company duly authorized to conduct such business in this State or may establish, alter, amend and modify, to the extent it deems necessary or desirable, a trust for the purpose of facilitating the administration, investment and maintenance of assets acquired by the investment of deferred funds. All assets of the Plan, including all deferred amounts, property and rights purchased with deferred amounts, and all income attributed thereto shall be held in trust for the exclusive benefit of the Plan participants and their beneficiaries.

(k) Members of the Board, who are not officers or employees of the State, shall receive per diem and necessary travel and subsistence in accordance with the provisions of G.S. 138-5, funded as provided in subsection (m) hereof.

(l) All clerical and other services and personnel required by the Board shall be supplied by the Secretary of Administration, funded as provided in subsection (m) hereof.

(m) Investment of deferred funds shall not be unreasonably delayed, and in no case shall the investment of deferred funds be delayed more than 30 days. The Board may accumulate such funds pending investment, and the interest earned on such funds pending investment shall be available to and may be spent in the discretion of the Board only for the reasonable and necessary expenses of the Board. The Secretary of Administration is authorized to prescribe guidelines for the expenditure of such funds by the Board. From time to time as the Board may direct, funds not required for such expenses may be used to defray administrative expenses and fees which would otherwise be required to be borne by teachers and employees who are then participating in the Plan.

(n) A majority of the Board shall constitute a quorum for the transaction of business.

(o) It is intended that the provisions of this Part shall be liberally construed to accomplish the purposes provided for herein."

SECTION 2. G.S. 143B-426.24(h1), as enacted by Section 1 of this act, becomes effective January 1, 2005. The remainder of this act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 12th day of July, 2004.

Became law upon approval of the Governor at 12:21 p.m. on the 29th day of July, 2004.

H.B. 1420

Session Law 2004-138

AN ACT TO EXTEND TO LOCAL GOVERNMENTS ACTING JOINTLY THE SAME SETOFF DEBT COLLECTION PROCEDURES CURRENTLY ALLOWED TO LOCAL GOVERNMENTS ACTING ALONE AND CONCERNING THE GLOBAL TRANSPARK AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105A-2 reads as rewritten:

"§ 105A-2. Definitions.

The following definitions apply in this Chapter:

- (1) Claimant agency. – Either of the following:
 - a. A State agency.
 - b. A local agency acting through a clearinghouse or an organization pursuant to G.S. 105A-3(b1).
- (2) Debt. – Any of the following:
 - a. A sum owed to a claimant agency that has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for the sum.
 - b. A sum a claimant agency is authorized or required by law to collect, such as child support payments collectible under Title IV, Part D of the Social Security Act.
 - c. A sum owed as a result of an intentional program violation or a violation due to inadvertent household error under the Food Stamp Program enabled by Chapter 108A, Article 2, Part 5.
 - d. Reserved for future codification purposes.
 - e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:
 1. The Work First Program provided in Article 2 of Chapter 108A of the General Statutes.
 2. The State-County Special Assistance for Adults Program enabled by Part 3 of Article 2 of Chapter 108A of the General Statutes.
 3. A successor program of one of these programs.
- (3) Debtor. – An individual who owes a debt.
- (4) Department. – The Department of Revenue.
- (5) Reserved.
- (6) Local agency. – Any of the following:
 - a. A county, to the extent it is not considered a State agency.
 - b. A municipality.
 - c. A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
 - d. A regional joint agency created by interlocal agreement under Article 20 of Chapter 160A of the General Statutes between two or more counties, cities, or both.

- (7) Net proceeds collected. – Gross proceeds collected through setoff against a debtor's refund minus the collection assistance fees provided in G.S. 105A-13.
- (8) Refund. – An individual's North Carolina income tax refund.
- (9) State agency. – Any of the following:
 - a. A unit of the executive, legislative, or judicial branch of State government.
 - b. A ~~county~~ local agency, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act."

SECTION 1.1. Except after consultation with the Joint Legislative Commission on Governmental Operations on its intent to expend or obligate funds, the North Carolina Global TransPark Authority shall not expend or obligate any funds that were borrowed from the Escheat Fund pursuant to G.S. 63A-4(a)(22) and G.S. 147-69.2(b)(11), or any interest earned on those funds.

SECTION 2. Section 1 of this act becomes effective January 1, 2004, and applies to income tax refunds determined 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 14th day of July, 2004.

Became law upon approval of the Governor at 12:22 p.m. on the 29th day of July, 2004.

S.B. 470**Session Law 2004-139**

AN ACT TO MODERNIZE THE LAW AFFECTING THE COMPENSATION OF TRUSTEES AND OTHER FIDUCIARIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 32 of the General Statutes is repealed.

SECTION 2. Chapter 32 of the General Statutes is amended by adding a new Article to read:

"Article 5A.

"Compensation of Trustees and Other Fiduciaries.

"§ 32-53. Definitions.

The following definitions apply in this Article:

- (1) "Beneficiary" means (i) all living persons who are currently receiving or who are eligible to receive distributions of income or principal of the trust and (ii) all living persons who would be entitled to income and/or principal of the trust if the trust were to terminate at the time of the giving of the notice referred to in G.S. 32-55 (without regard to the exercise of any power of appointment).
- (2) "Representative" means, with respect to a beneficiary who is under a legal disability, the beneficiary's agent under a durable power of attorney, general guardian, guardian of the estate, or guardian of the person of a beneficiary, and the parent of a minor beneficiary.
- (3) "Trust" is as defined in G.S. 36A-22.1(5).

"§ 32-54. Compensation of trustees.

(a) If the terms of the trust do not specify the trustee's compensation, the trustee is entitled to receive from the assets of the trust compensation that is reasonable under the circumstances.

(b) All of the following factors shall be considered in determining reasonableness of compensation:

- (1) The degree of difficulty and novelty of the tasks required of the trustee.
- (2) The responsibilities and risks involved.
- (3) The amount and character of the trust assets.
- (4) The skill, experience, expertise, and facilities of the trustee.
- (5) The quality of the trustee's performance.
- (6) Comparable charges for similar services.
- (7) Time devoted to administering the trust.
- (8) Time constraints imposed upon the trustee in administering the trust.
- (9) Nature and costs of services delegated to others by the trustee.
- (10) Where more than one trustee is serving, the reasonableness of the total fees paid to all trustees.
- (11) Other factors which the trustee or the clerk of superior court deems to be relevant.

"§ 32-55. Notice.

(a) The trustee shall give written notice to all beneficiaries of each proposed payment of compensation if the annual amount of compensation exceeds four-tenths of one percent (4/10 of 1%) of the principal value of the assets of the trust on the last day of the trust accounting year. The notice shall contain a statement that the beneficiaries have 20 days from when notice is given to file a proceeding for review of the reasonableness of the compensation with the clerk of superior court in accordance with Article 3 of Chapter 36A of the General Statutes.

(b) In lieu of giving written notice of each proposed payment of compensation under subsection (a) of this section, the trustee may give written notice to all beneficiaries of the amount of compensation to be paid to the trustee on a periodic basis or of the method of computation of the compensation. The trustee shall not be required to give additional notice to the beneficiaries unless the amount to be paid to the trustee on a periodic basis or the method of computation of the compensation changes.

(c) If a beneficiary is under a legal disability, notice shall be deemed to be given to the beneficiary only if notice is given to the representative of the beneficiary. If the trustee is the representative of the beneficiary, no notice shall be deemed to have been given to the beneficiary.

(d) The written notice required under this section shall be deemed to be given as follows: (i) when personally delivered by hand to the person, (ii) when transmitted by facsimile or e-mail with confirmation of transmission, (iii) when placed in the hands of a nationally recognized courier service for delivery, (iv) when received by the person if sent by registered or certified United States mail, return receipt requested, (v) three days after depositing the same in a regularly maintained receptacle for the deposit of United States mail if sent by regular United States mail. Notices delivered by any other means shall be deemed to be delivered, given, and received for all purposes as of the date of the actual receipt.

"§ 32-56. Payment of compensation without court order.

(a) The trustee is authorized to pay the compensation provided for in G.S. 32-54 without prior approval of the clerk of superior court only if:

- (1) The annual amount of compensation does not exceed four-tenths of one percent (4/10 of 1%) of the principal value of the assets of the trust on the last day of the trust accounting year; or
- (2) No beneficiary has initiated a proceeding under G.S. 32-57 for review of the reasonableness of the compensation within 20 days after notice has been given by the trustee in accordance with G.S. 32-55.

"§ 32-57. Judicial review; payment of compensation and other payments with court order.

(a) The trustee or any beneficiary may initiate a proceeding under Article 3 of Chapter 36A of the General Statutes for review of the reasonableness of any compensation or expense reimbursement and for the approval or denial of the payment of compensation or expense reimbursement. A beneficiary may initiate a proceeding even though the 20-day period referred to in G.S. 32-56(a)(2) has expired.

(b) In connection with reviewing the reasonableness of any compensation or expense reimbursement, the clerk of superior court may order the trustee to make appropriate refunds if the clerk determines upon review that a trustee has received excessive compensation or expense reimbursement.

"§ 32-58. Reimbursement for expenses incurred.

In addition to the compensation referred to in G.S. 32-54, the trustee shall be entitled to reimbursement out of the assets of the trust for expenses properly incurred in the administration of the trust and shall be empowered to pay the expenses from the assets of the trust without prior approval of the clerk of superior court.

"§ 32-59. Compensation of other fiduciaries.

Unless otherwise provided by the General Statutes or by the instrument creating the fiduciary relationship, fiduciaries other than trustees under a trust shall be entitled, upon written request to the clerk of superior court, to reasonable compensation in an amount to be determined by the clerk after taking into consideration the factors set forth in G.S. 32-54(b) and to reimbursement for expenses properly incurred in the administration of the fiduciary relationship.

"§ 32-60. Effect of provisions in instrument.

In those instances where the instrument creating the trust or other fiduciary relationship provides that the compensation of the fiduciary shall be the amount "provided by law", the "maximum amount provided by law", or other similar language, or references former G.S. 32-50, this language shall be construed as an intention that the trustee or other fiduciary shall receive reasonable compensation as allowed under this Article. In those instances where the instrument creating the trust or other fiduciary relationship provides that the trustee or other fiduciary shall serve without compensation, this language shall be construed as being a provision relating to compensation, and the trustee or other fiduciary shall not be entitled to receive reasonable compensation as allowed under this Article.

"§ 32-61. Counsel fees allowable to attorneys serving as fiduciaries.

The clerk of superior court may exercise discretion to allow counsel fees to an attorney serving as a fiduciary or trustee (in addition to the compensation allowed to the attorney as a fiduciary or trustee) where the attorney, on behalf of the trust or fiduciary relationship, renders professional services as an attorney that are different from the services normally performed by a fiduciary or trustee and of a type which would

reasonably justify the retention of legal counsel by a fiduciary or trustee who is not licensed to practice law.

"§ 32-62. Applicability.

Regardless of when the trust or fiduciary relationship is created, the provisions of this Article shall apply to all payments made to a fiduciary after January 1, 2005, including payments for compensation earned prior to January 1, 2005."

SECTION 3. G.S. 32A-11(c) reads as rewritten:

"(c) In the event that any power of attorney executed pursuant to the provisions of this Article does not contain the amount of ~~commissions~~compensation that the attorney-in-fact is entitled to receive or the way such ~~commissions are~~compensation is to be determined, and the principal should thereafter become incapacitated or mentally incompetent, ~~the commissions such attorney-in-fact shall receive subsequent to the principal's incapacity or mental incompetence shall be fixed in the discretion of the clerk of superior court pursuant to the provisions of G.S. 32-50(e).~~then, subsequent to the principal's incapacity or mental incompetence, the attorney-in-fact shall be entitled to receive reasonable compensation as determined by the clerk of superior court after considering the factors set forth in G.S. 32-54(b)."

SECTION 4. 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. 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;
- (2) To review trustees' fees ~~pursuant to G.S. 32-50~~and expenses pursuant to Article 5A of Chapter 32 of the General Statutes and to 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 5. G.S. 36A-63(d) reads as rewritten:

"(d) In addition to any other compensation to which it may be entitled under G.S. 28A-23-3, ~~32-50,~~ 34-12, 35A-1269, or under any other authority, a corporation acting in a fiduciary capacity shall be allowed to charge a fee for the temporary investment of funds held awaiting investment or distribution, which fee may be calculated upon the amount of such funds actually invested and upon the income produced thereby. The fee authorized by this subsection shall not exceed twelve percent (12%) of the income produced by such investment. A corporation acting in a fiduciary capacity has complied with its duty to disclose fees and practices in connection with the investment of fiduciary funds awaiting investment or distribution if the corporation's periodic statements set forth the method of computing such fees."

SECTION 6. This act becomes effective January 1, 2005, and applies to payments made to a fiduciary on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2004.

Became law upon approval of the Governor at 12:22 p.m. on the 29th day of July, 2004.

S.B. 1202**Session Law 2004-140**

AN ACT TO SPECIFY THE MINIMUM HORIZONTAL SEPARATION DISTANCES BETWEEN A SUBSURFACE WASTEWATER DISPOSAL SYSTEM TO BE LOCATED ON A LOT OR TRACT OF LAND PLATTED PRIOR TO 1 JULY 1977, THAT WILL BE OPERATED IN SAND OR LOAMY SAND SOILS, AND THAT MEETS CERTAIN OTHER REQUIREMENTS, AND ANY OTHER SUBSURFACE WASTEWATER DISPOSAL SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. A subsurface wastewater disposal system shall be located the maximum feasible horizontal distance, but not less than 10 feet from any other subsurface wastewater disposal system, when all of the following conditions are met:

- (1) The lot or tract of land on which the system will be located is specifically described in a deed, other instrument conveying fee simple title, or on a plat recorded prior to 1 July 1977.
- (2) The lot or tract of land is of insufficient size to allow the minimum horizontal separation distance for a conventional wastewater system required in 15A NCAC 18A .1950.
- (3) The system will receive sewage from only one single-family residence not to exceed four bedrooms.
- (4) The residence is not capable of being served by a public or community wastewater system at the time construction of the system commences.
- (5) The system will be installed in sand or loamy sand soils as defined in 15A NCAC 18A .1935 and installed in accordance with rules adopted pursuant to Article 11 of Chapter 130A of the General Statutes.

SECTION 2. The Commission for Health Services may adopt rules that incorporate the provisions of Section 1 of this act. Except as provided by Section 1 of this act, this act does not limit the authority of the Commission for Health Services or the Environmental Management Commission to adopt rules governing the location, construction, operation, maintenance, or repair of subsurface wastewater disposal systems pursuant to G.S. 130A-335 or other provisions of Article 11 of Chapter 130A of the General Statutes.

SECTION 3. This act is effective when it becomes law and applies to applications for permits made on or after that date. If the Commission for Health Services adopts a permanent rule to implement the provisions of Section 1 of this act, Section 1 of this act expires when the permanent rule becomes effective.

In the General Assembly read three times and ratified this the 12th day of July, 2004.

Became law upon approval of the Governor at 12:22 p.m. on the 29th day of July, 2004.

S.B. 1078

Session Law 2004-141

AN ACT TO AMEND THE VEHICLE CONTROL SIGN AND SIGNAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-158(a)(3) reads as rewritten:

"(3) At intersections and other appropriate places, by erecting or installing steady-beam ~~stoplights-traffic signals~~ and other traffic control devices, signs, or signals. All steady-beam ~~stoplights-traffic signals~~ emitting alternate red and green lights shall be arranged so that the red light in vertical-arranged signal faces shall appear at the top of the signaling unit and the green light shall appear at the bottom of the signaling unit above, and in horizontal-arranged signal faces shall appear to the left of all yellow and green lights."

SECTION 2. G.S. 20-158(b)(2) reads as rewritten:

"(2) Vehicles facing a red light controlling traffic ~~passing straight through~~ approaching an intersection ~~from a steady or strobe beam stoplight with a steady-beam traffic signal~~ shall not enter the intersection while the ~~steady or strobe beam stoplight-traffic signal~~ is emitting a ~~the red light controlling traffic passing straight through an intersection;~~ light; provided that, except where prohibited by an appropriate sign, vehicular traffic facing a red light controlling traffic ~~passing straight through~~ approaching an intersection, after coming to a complete stop at the intersection, may enter the intersection to make a right turn but such vehicle shall yield the right-of-way to pedestrians and to other traffic using the intersection. When the ~~stoplight-traffic signal~~ is emitting a steady yellow circular light on a traffic signal controlling traffic ~~passing straight through~~ approaching an intersection or a steady yellow arrow light on a traffic signal controlling traffic turning at an intersection, vehicles facing the yellow light are warned that the related green light is being terminated or a red light will be immediately forthcoming. When the ~~stoplight-traffic signal~~ is emitting a steady green light, vehicles may proceed with due care through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law."

SECTION 3. G.S. 160A-300.2(e), as enacted by Section 3 of S.L. 2001-286, reads as rewritten:

"(e) The duration of the yellow light change interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change interval duration ~~specified in the Design Manual developed by the Signals and Geometries Section of the North Carolina Department of Transportation on the traffic signal plan of record signed and sealed by a licensed North Carolina Professional Engineer in accordance with Chapter 89C of the General Statutes, and shall be in full conformance with the requirements of the Manual on Uniform Traffic Control Devices.~~"

SECTION 4. G.S. 160A-300.3(e), as enacted by Section 3 of S.L. 2001-286, reads as rewritten:

"(e) The duration of the yellow light change interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change

interval duration specified ~~in the Design Manual developed by the Signals and Geometries Section of the North Carolina Department of Transportation on the traffic signal plan of record signed and sealed by a licensed North Carolina Professional Engineer in accordance with Chapter 89C of the General Statutes, and shall be in full conformance with the requirements of the Manual on Uniform Traffic Control Devices.~~"

SECTION 5. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 12th day of July, 2004.

Became law upon approval of the Governor at 12:23 p.m. on the 29th day of July, 2004.

H.B. 173

Session Law 2004-142

AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT AND CLARIFYING THE REMITTANCE OF CIVIL PENALTIES UNDER THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21 reads as rewritten:

"§ 88B-21. Renewals; expired ~~licenses~~.licenses; inactive status.

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on or before October 1 of each year. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(d) Teacher licenses shall be renewed every two years on or before October 1. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a ~~teacher's~~ license, ~~the teacher~~ a teacher, cosmetologist, esthetician, or manicurist shall annually complete ~~a minimum of~~ eight hours of Board-approved continuing education which shall be approved by the Board. Teachers for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of required continuing education at any time within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. A licensee who is in active practice as a cosmetologist, esthetician, or manicurist, has practiced for at least 10 consecutive years in that profession and is 60 years of age or older does not have to

meet the continuing education requirements of this subsection. Promotion of products and systems shall be allowed at continuing education given in-house or at trade shows. Continuing education classes may also be offered in secondary languages as needed. No member of the Board may offer continuing education courses as required by this section.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required ~~to pay the license fee for each year that the fees are delinquent~~ and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees.

(h) Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of this section."

SECTION 2. G.S. 88B-29(a) reads as rewritten:

"(a) Authority to Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 88B-24, the Board may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Chapter or the violation of any rules adopted by the Board. ~~All civil penalties collected by the Board shall be remitted to the school fund of the county in which the violation occurred. 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."~~

SECTION 3. Section 1 of this act becomes effective October 1, 2004. Section 2 of this act is effective when it becomes law and applies to violations occurring on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

H.B. 1083

Session Law 2004-143

AN ACT TO PROMOTE WATER CONSERVATION IN MULTIFAMILY RESIDENTIAL PROPERTIES BY AMENDING VARIOUS STATE LAWS REGARDING THE USE OF SUBMETERS IN LIGHT OF CHANGES IN POLICY RELATED TO WATER TESTING REQUIREMENTS AND WATER CONSERVATION BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-3 reads as rewritten:

"§ 42-3. Term forfeited for nonpayment of rent.

In all verbal or written leases of real property of any kind in which is fixed a definite time for the payment of the rent reserved therein, there shall be implied a forfeiture of the term upon failure to pay the rent within 10 days after a demand is made by the lessor or his agent on said lessee for all past-due rent, and the lessor may forthwith enter and dispossess the tenant without having declared such forfeiture or reserved the right of reentry in the lease. ~~Where a written lease establishes a monthly rent that includes water and sewer services under G.S. 62-110(g), the terms "rent" and "rental payment", as used in this Chapter, mean base rent only.~~

SECTION 2. G.S. 42-26(b) reads as rewritten:

"(b) An arrearage in ~~additional rent costs~~ owed by a tenant for water ~~and or~~ sewer services pursuant to G.S. 62-110(g) shall not be used as a basis for termination of a ~~lease~~ lease under this Chapter. Any ~~partial payment to the landlord of monthly rent~~ shall be applied first to the ~~base rent~~ rent owed and then to charges for water or sewer service, unless otherwise designated by the tenant."

SECTION 3. G.S. 42-42(a) is amended by adding a new subsection to read:

"(6) If the landlord is charging for the cost of providing water or sewer service pursuant to G.S. 42-42.1 and has actual knowledge from either the supplying water system or other reliable source that water being supplied to tenants within the landlord's property exceeds a maximum contaminant level established pursuant to Article 10 of Chapter 130A of the General Statutes, provide notice that water being supplied exceeds a maximum contaminant level."

SECTION 4. Article 5 of Chapter 42 of the General Statutes is amended by adding a new section to read:

"§ 42-42.1. Water Conservation.

(a) For the purpose of encouraging water conservation, pursuant to a written rental agreement, a landlord may charge for the cost of providing water or sewer service to tenants who occupy the same contiguous premises pursuant to G.S. 62-110(g).

(b) The landlord may not disconnect or terminate the tenant's water or sewer services due to the tenant's nonpayment of the amount due for water or sewer services."

SECTION 5. G.S. 42-46(d) reads as rewritten:

"(d) A lessor shall not charge a late fee to a lessee because of the lessee's failure to pay ~~additional rent~~ for water ~~and or~~ sewer services provided pursuant to G.S. 62-110(g)."

SECTION 6. G.S. 42-51 reads as rewritten:

"§ 42-51. Permitted uses of the deposit.

Security deposits for residential dwelling units shall be permitted only for the tenant's possible nonpayment of ~~base rent~~ and ~~additional rent costs~~ for water ~~and or~~ sewer services provided pursuant to G.S. 62-110(g), damage to the premises, nonfulfillment of rental period, any unpaid bills ~~which~~ that become a lien against the demised property due to the tenant's occupancy, costs of re-renting the premises after breach by the tenant, costs of removal and storage of tenant's property after a summary ejectment proceeding or court costs in connection with terminating a tenancy. The security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half months' rent if a tenancy is month to month, and two

months' rent for terms greater than month to month. These deposits must be fully accounted for by the landlord as set forth in G.S. 42-52."

SECTION 7. G.S. 62-110(g) reads as rewritten:

"(g) ~~For~~ In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, 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 lessor to charge for the costs for of providing water and or sewer service on a metered use basis to persons who occupy the same contiguous premises. The following provisions shall apply:

- (1) All charges for water or sewer service shall be based on the user's metered consumption of water, which shall be determined by metered measurement of all water consumed and not by any partial measurement of water consumption, unless specifically authorized by the Commission. The rate charged by the lessor shall not exceed the unit consumption rate charged by the supplier of the service.
- (2) ~~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~~ The lessor may charge a reasonable administrative fee. fee for providing water or sewer service not to exceed the maximum administrative fee authorized by the Commission.
- (3) 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.
- (4) The Commission shall develop an application that lessors must submit for authority to charge for water or sewer service. The form shall include all of the following:
 - a. A description of the applicant and the property to be served.
 - b. A description of the proposed billing method and billing statements.
 - c. The schedule of rates charged to the applicant by the supplier.
 - d. The schedule of rates the applicant proposes to charge the applicant's customers.
 - e. The administrative fee proposed to be charged by the applicant.
 - f. The name of and contact information for the applicant and its agents.
 - g. The name of and contact information for the supplying water or sewer system.
 - h. Any additional information that the Commission may require.
- (5) The Commission shall approve or disapprove an application within 30 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 30 days, the application shall be deemed approved.
- (6) A provider of water or sewer service under this subsection may increase the rate for service so long as the rate does not exceed the unit consumption rate charged by the supplier of the service. A provider of

water or sewer service under this subsection may change the administrative fee so long as the administrative fee does not exceed the maximum administrative fee authorized by the Commission. In order to change the rate or administrative fee, the provider shall file a notice of revised schedule of rates and fees with the Commission. The Commission may prescribe the form by which the provider files a notice of a revised schedule of rates and fees under this subsection. The form shall include all of the following:

- a. The current schedule of the unit consumption rates charged by the provider.
 - b. The schedule of rates charged by the supplier to the provider that the provider proposes to pass through to the provider's customers.
 - c. The schedule of the unit consumption rates proposed to be charged by the provider.
 - d. The current administrative fee charged by the provider, if applicable.
 - e. The administrative fee proposed to be charged by the provider.
- (7) A notification of revised schedule of rates and fees shall be presumed valid and shall be allowed to become effective upon 14 days notice to the Commission, unless otherwise suspended or disapproved by order issued within 14 days after filing.
- (8) 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-charged for the services. Nothing in this subsection shall be construed to alter the rights, obligations, or remedies of persons providing water and-or sewer services and their customers under any other provision of law.
- (9) A provider of water or sewer service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36 or to furnish a bond pursuant to G.S. 62-110.3."

SECTION 8. G.S. 130A-315(d) reads as rewritten:

"(d) When a person that receives water from a public water system is authorized by the Utilities Commission, pursuant to G.S. 62-110(g), to ~~install sub-meters and allocate charge for~~ the costs ~~for-of~~ providing water service to persons who occupy the same contiguous premises, or sewer service, that person shall ~~be regulated as a consecutive water system.~~ not be subject to regulation under this Article solely as a result of submetering and billing for water service. ~~The monitoring, analysis, and record-keeping requirements applicable to consecutive water systems under this section shall be satisfied by the monitoring, analysis, and record-keeping performed by the supplying water system and submitted to the Department in compliance with this section.~~ The supplying water system shall perform the same level of monitoring, analysis, and record keeping that the supplying system would perform if the ~~person that receives the water~~ providing water system had not been authorized to ~~allocate the charge for the costs for-of~~ providing water or sewer service under G.S. 62-110(g), but the supplying water system shall not be required to perform additional monitoring, analysis, and record-keeping. A supplying water system is not responsible for operation, maintenance, or repair of the consecutive water system. pursuant to G.S. 62-110(g).

(e) When a public water system supplies water through a master meter to a water system not regulated by this Article, the supplying water system is not responsible for operation, maintenance, or repair of the providing water system. The supplying water system shall not be responsible for contamination that is confined to the providing water system if the supplying water system meets applicable requirements for water quality, treatment, and system operation for that contaminant. The supplying water system may monitor the water within the providing water system for contamination pursuant to rules adopted under this Article. The supplying water system and the Department shall have access to the providing water system to investigate water quality problems and to determine whether any contamination is confined to the providing water system and whether the quality of the water supplied by the supplying water system is contributing contamination to the providing water system.

(f) If water in the providing water system exceeds the maximum contaminant levels established pursuant to this Article and the Department determines that the supplying water system is not responsible, the supplying water system must notify the providing water system owner in writing within one day of determining that the contamination is confined solely to the providing water system for bacteria, nitrate, and nitrite, and within 30 days for all other contaminants."

SECTION 9. On 1 August 2004 all certificates of authority for allocation of rental costs and all temporary operating authority as traditional water or sewer utilities issued by the Utilities Commission to entities that provide water or sewer services pursuant to G.S. 62-110(g), as that subsection read prior to the amendments made by Section 7 of this act, shall terminate. All entities operating under these certificates or temporary operating authority shall be deemed to have certificates of authority to charge for water or sewer service at their then existing rates.

SECTION 10. Effective 1 August 2004, Utilities Commission Rules R18-11 through R18-17 shall be rescinded and former Commission Rules R18-1 through R18-7 as they existed on 18 December 2001 shall be reinstated, subject to the authority of the Commission to modify or rescind them or adopt additional rules.

SECTION 11. This act becomes effective 1 August 2004.

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law upon approval of the Governor at 12:31 p.m. on the 29th day of July, 2004.

S.B. 1148

Session Law 2004-144

AN ACT TO PROVIDE SUPPORT AND TRAINING FOR LONG-TERM CARE PROVIDERS CARING FOR RESIDENTS WITH MENTAL ILLNESSES, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services shall study the mission of the Geriatric Mental Health Specialty Teams to assist long-term care facilities in serving all residents who are within the targeted populations, as identified in the State Plan developed pursuant to G.S. 122C-102. The Department shall include representatives from Area Authorities, Local Management Entities, the adult care home

and the nursing home industries and other appropriate stakeholders. As part of this study, the Department shall consider whether to:

- (1) Create two separate teams, a Geriatric Mental Health Specialty Team to provide services to geriatric mental health residents who are part of the targeted population, and a LTC Mental Health Specialty Team to provide services to nongeriatric residents who are part of the targeted population in long-term care facilities.
- (2) Broaden the scope of and rename the Geriatric Mental Health Specialty Teams to LTC Mental Health Specialty Teams to reflect the expanded mission.

SECTION 2. The Department of Health and Human Services shall also standardize these criteria across all mental health specialty teams:

- (1) Team purpose,
- (2) Eligibility for services,
- (3) Screening processes,
- (4) Referral processes, and
- (5) Forms, Training Manuals, Service Orders, and Authorizations.

The Department shall proceed immediately with implementing any of these standards that are currently established. The Department shall provide a time line for implementation of the remaining criteria in its interim report required under Section 4 of this act.

SECTION 3. The Department of Health and Human Services shall proceed immediately with implementation of the following:

- (1) Tracking expenditure data for each Team and each Area Program/Local Management Entity.
- (2) Tracking the number of facilities served, the number of clients served, and the types of services provided by each Team.
- (3) Tracking the use of clinicians with and without formal specialty training in mental health and geriatric mental health on the specialty teams.

SECTION 4. The Department of Health and Human Services shall submit an interim report to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by October 30, 2004, on its efforts to standardize criteria; track expenditure data; and track the number of facilities served, clients served, and services provided by each Team. The Department shall submit a final report on its standardization and tracking efforts, and the results of its study, to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by October 30, 2005.

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

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law upon approval of the Governor at 12:34 p.m. on the 29th day of July, 2004.

S.B. 1043

Session Law 2004-145

AN ACT TO ADJUST THE WEIGHT LIMITS FOR TRUCKS TRANSPORTING CERTAIN MATERIALS AND TO PROVIDE THAT A LAW ENFORCEMENT OFFICER CANNOT ISSUE A CITATION TO A PERSON FOR FAILING TO HAVE IN HIS POSSESSION A SPECIAL PERMIT FOR VEHICLES OF EXCESSIVE SIZE AND WEIGHT IF THE OFFICER DETERMINES THAT THE PERSON HAS BEEN ISSUED A PERMIT AND THE PERSON SUBMITS THE PERMIT WITHIN THIRTY DAYS OF THE VIOLATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-118(c)(15) reads as rewritten:

"(15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

- a. Is hauling wood residuals, including wood chips, sawdust, mulch, or tree ~~bark~~ bark, or is transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings from a site that does not have a certified scale for weighing the vehicle.
- b. Does not operate on an interstate highway, a posted light-traffic road, or a posted bridge.
- c. Does not exceed a maximum gross weight 4,000 pounds in excess of what is allowed in subsection (b) of this section.
- d. Does not exceed a single-axle weight of more than 22,000 pounds and a tandem-axle weight of more than 42,000 pounds."

SECTION 2. G.S. 20-118(e) is amended by adding a new subdivision to

read:

"(6) The penalty for violating the gross weight or axle-group weight by a dump truck or dump trailer vehicle transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings intrastate from a site that does not have a certified scale for weighing the vehicle is one-half of the amount it otherwise would be under subdivisions (1) and (3) of this subsection."

SECTION 3. G.S. 20-119 is amended by adding a new subsection to read:

"(g) No law enforcement officer shall issue a citation to a person for a violation of this section if the officer is able to determine by electronic means that the person has a permit valid at the time of the violation but does not have the permit in his or her possession. Any person issued a citation pursuant to this section who does not have the permit in his or her possession at the time of the issuance of the citation shall not be responsible for a violation, and the Department of Crime Control and Public Safety may not impose any fines under this section if the person submits evidence to the Department of the existence of a permit valid at the time of the violation within 30 days of the date of the violation."

SECTION 4. Section 3 of this act becomes 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 13th day of July, 2004.

Became law upon approval of the Governor at 12:38 p.m. on the 29th day of July, 2004.

S.B. 1384**Session Law 2004-146**

AN ACT AMENDING THE LAWS REGULATING THE PRACTICE OF BARBERING AND AUTHORIZING THE STATE BOARD OF BARBER EXAMINERS TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE LAWS OR RULES REGULATING THE PRACTICE OF BARBERING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 86A-4 reads as rewritten:

"§ 86A-4. State Board of Barber Examiners; appointment and qualifications; term of office; removal.

(a) The State Board of Barber Examiners is established to consist of five members appointed by the Governor. Four shall be licensed barbers; the other shall be a person who is not licensed under this Chapter and who shall represent the interest of the public at large.

(b) No member appointed to the Board on or after July 1, 1981, shall serve more than three complete consecutive three-year terms, except that each member shall serve until the member's successor is appointed and qualifies.

No person who has been employed by the North Carolina State Board of Barber Examiners and has been removed for just cause shall be appointed within five years of the removal to serve as a Board member.

(c) The Governor may remove any member for good cause shown and may appoint members to fill unexpired terms.

(d) Notwithstanding subsections (a) and (b) of this section, a licensed barber who holds an officer position on the National Association of Barber Boards of America may be appointed by the Governor to serve on the Board as the 'public at large' member for the three-year term beginning July 1, 2004, if the Governor determines that there is not a public member willing to serve on the Board for this three-year term."

SECTION 1.(b) This section expires July 1, 2007.

SECTION 2. G.S. 86A-5(a) reads as rewritten:

"(a) The Board has the following powers and duties:

- (1) To see that inspections of barbershops and schools are conducted to determine compliance with sanitary regulations. The Board may appoint inspectors as ~~necessary~~necessary.
- (2) To adopt sanitary regulations concerning barber schools and shops and procedural rules in accordance with the guidelines established in ~~G.S. 86A-15~~G.S. 86A-15.
- (3) To review the barber licensing laws of other states and to determine which are the substantive equivalent of the laws of North Carolina for purposes of ~~G.S. 86A-12~~G.S. 86A-12.
- (4) To conduct examinations of applicants for certificate of registration as registered barber, registered apprentice and barber school instructor.
- (5) To employ and fix the compensation of personnel that the Board deems necessary to carry out the provisions of this Chapter.
- (6) To assess civil penalties pursuant to G.S. 86A-27."

SECTION 3. G.S. 86A-6 reads as rewritten:

"§ 86A-6. Office; seal; officers and executive ~~secretary~~;director; funds.

The Board shall maintain a suitable office in Raleigh, and shall adopt and use a common seal for the authentication of its orders and records. The Board shall annually elect its own officers, and in addition, may elect or appoint a full-time executive ~~secretary~~-director who shall not be a member of the Board, and whose salary shall be fixed by the Board. The executive ~~secretary~~-director shall turn over to the State Treasurer to be credited to the State Board of Barber Examiners all funds collected or received under this Chapter, the funds to be held and expended under the supervision of the Director of the Budget, exclusively for the enforcement and administration of the provisions of this Chapter. Nothing herein shall be construed to authorize any expenditure in excess of the amount available from time to time in the hands of the State Treasurer derived from fees collected under the provisions of this Chapter and received by the State Treasurer pursuant to the provisions of this section."

SECTION 4. G.S. 86A-9 reads as rewritten:

"§ 86A-9. Board to conduct examinations not less than four times each year.

The Board shall conduct examinations of applicants for certificates of registration to practice as registered barbers and registered apprentices, not less than four times each year, at such times and places as will prove most convenient and as the Board may determine. The Board may adopt rules establishing procedures for the administration of examinations."

SECTION 5. G.S. 86A-17(b) reads as rewritten:

"(b) A registered barber whose certificate of registration has expired may have the certificate restored immediately upon paying all lapsed renewal fees and the required late fee and furnishing a health certificate if required by the ~~Board; provided, however, a~~ Board. Where a registered barber's certificate of registration has expired for a period greater than six months, the Board may impose civil penalties pursuant to G.S. 86A-27. A registered barber whose certificate has expired for a period of five years shall be required to take the clinical examination prescribed by the State Board of Barber Examiners and otherwise comply with the provisions of this Chapter before engaging in the practice of barbering. No registered barber who is reissued a certificate under this subsection shall be required to serve an apprenticeship as a prerequisite to reissuance of the certificate."

SECTION 6. Chapter 86A of the General Statutes is amended by adding a new section to read:

"§ 86A-20.1. Enjoining illegal practices.

The Board, the Department of Health and Human Services, or any county or district health director may apply to the superior court for an injunction to restrain any person from violating the provisions of this Chapter or the Board's rules. Actions under this section shall be brought in the county where the defendant resides or maintains his or her principal place of business or where the alleged acts occurred."

SECTION 7. G.S. 86A-22 reads as rewritten:

"§ 86A-22. Licensing and regulating barber schools and colleges.

The North Carolina State Board of Barber Examiners may approve barber schools or colleges in the State, and may prescribe rules and regulations for their operation. The Board shall adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber school or college shall be approved by the Board unless the school or college meets all of the following requirements:

- (1) Each school shall provide a course of instruction of at least 1528 hours.

- (2) ~~Each school shall have at least two instructors, except that nonprofit schools shall have at least one instructor for every 20 enrolled students. Each instructor must hold a valid instructor's certificate issued by the Board. At least one instructor must be on the premises of a barber school during regular instruction hours.~~ employ at least two instructors for the first 40 enrolled students and employ at least one additional instructor for every additional 20 enrolled students. Schools that are organized as nonprofits and have obtained a ruling from the Internal Revenue Service recognizing their tax-exempt status shall have at least one instructor for every 20 enrolled students. No school, whether for profit or nonprofit, shall provide practical training and theoretical training simultaneously unless at least two instructors are present.
- (3) An application for a student's permit, on a form prescribed by the Board, must be filed with the Board before the student enters school. No student may enroll without having obtained a student's permit.
- (4) Each student enrolled shall be given a complete course of instruction on the following subjects: hair cutting; shaving; shampooing, and the application of creams and lotions; care and preparation of tools and implements; scientific massaging and manipulating the muscles of the scalp, face, and neck; sanitation and hygiene; shedding and regrowth of hair; elementary chemistry relating to sterilization and antiseptics; instruction on common skin and scalp diseases to the extent that they may be recognized; pharmacology as it relates to preparations commonly used in barbershops; instruction in the use of electrical appliances and the effects of the use of these on the human skin; structure of the skin and hair; nerve points of the face; the application of hair dyes and bleaches; permanent waving; marcelling or hair pressing; frosting and streaking; and the statutes and regulations relating to the practice of barbering in North Carolina. The Board shall specify the minimum number of hours of instruction for each subject required by this subsection.
- (5) Each school shall file an up-to-date list of its students with the Board at least once a month. If a student withdraws or transfers, the school shall file a report with the Board stating the courses and hours completed by the withdrawing or transferring student. The school shall also file with the Board a list of students who have completed the amount of work necessary to meet the licensing requirements.
- (6) Each school shall comply with the sanitary requirements of G.S. 86A-15.
- (7) a. Each school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95.
The North Carolina State Board of Barber Examiners may revoke the approval of a school that fails to maintain a bond or an alternative to a bond pursuant to this subdivision or G.S. 115D-95.
- b. When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the

superior court of the county in which the school will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school ceasing to operate.

The bond shall be in an amount determined by the Board to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a school shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal year by the school. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for approval shall include a letter signed by an authorized representative of the school showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subpart and the rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

- c. An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subpart. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:
 1. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.

2. A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

SECTION 8. G.S. 86A-24(b) reads as rewritten:

"(b) An apprentice license expires on May 31 of each year. Every holder of an apprentice license shall annually renew the apprentice license by the expiration date and pay the required renewal fee. An apprentice license issued under this Chapter is automatically suspended by operation of law after failure to renew the apprentice license by the expiration date. An apprentice whose apprentice license has expired may have the certificate restored immediately upon paying all lapsed renewal fees and the required late fee. The certificate of registration of an apprentice is valid only so long as the apprentice works under the supervision of a registered barber. The registered barber shall remain present on the premises of the barbershop at all times while the apprentice is working. No apprentice shall operate a barbershop."

SECTION 9. G.S. 86A-26 reads as rewritten:

"§ 86A-26. Barbering among members of same family.

This Chapter shall not prohibit a member of a family from practicing barbering on a member of his or her family. For purposes of this section, 'a member of his or her family' means a spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild."

SECTION 10. Chapter 86A of the General Statutes is amended by adding a new section to read:

"§ 86A-27. Civil penalties; disciplinary costs.

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of five hundred dollars (\$500.00) per offense for the violation of any section of this Chapter 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 Chapter and rules adopted by the Board.

(d) Costs. – The Board may in a disciplinary proceeding charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 11. G.S. 86A-25 reads as rewritten:

"§ 86A-25. Fees collectible by Board.

The State Board of Barber Examiners shall charge fees not to exceed the following:

Certificate of registration or renewal as a barber.....	\$30.00	<u>50.00</u>
Certificate of registration or renewal as an apprentice barber	30.00	<u>50.00</u>
Barbershop permit or renewal.....	30.00	<u>50.00</u>
Examination to become a registered barber.....	50.00	<u>85.00</u>
Examination to become a registered apprentice barber	50.00	<u>85.00</u>
Late fee for restoration of an expired barber certificate within first year after expiration.....	20.00	<u>35.00</u>
Late fee for restoration of an expired barber certificate after first year after expiration but within five years after expiration.....	40.00	<u>70.00</u>
Late fee for restoration of an expired apprentice certificate within first year after expiration.....	20.00	<u>35.00</u>
Late fee for restoration of an expired apprentice certificate after first year after expiration but within three years of first issuance of the certificate	25.00	<u>45.00</u>
Late fee for restoration of an expired barbershop certificate.....	25.00	<u>45.00</u>
Examination to become a barber school instructor.....	95.00	<u>165.00</u>
Student permit.....	15.00	<u>25.00</u>
Issuance of any duplicate copy of a license, certificate, or permit	7.50	<u>10.00</u>
Barber school permit or renewal.....	75.00	<u>130.00</u>
Late fee for restoration of an expired barber school certificate.....	50.00	<u>85.00</u>
Barber school instructor certificate or renewal.....	50.00	<u>85.00</u>
Late fee for restoration of an expired barber school instructor certificate within first year after expiration.....	25.00	<u>45.00</u>
Late fee for restoration of an expired barber school instructor certificate after first year after expiration but within three years after expiration.....	50.00	<u>85.00</u>
Inspection of newly established barbershop	70.00	<u>120.00</u>
Inspection of newly established barber school	125.00	<u>220.00</u>
Issuance of a registered barber or apprentice certificate by certification.....	70.00	<u>120.00</u>
Barbers 70 years and older certificate or renewal.....	No charge	<u>charge</u>

Reasonable charges for certified copies of public documents

Reasonable charges for duplication services and material."

SECTION 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 12:40 p.m. on the 29th day of July, 2004.

AN ACT TO INCREASE THE CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(l) reads as rewritten:

"(l) **Death Benefit Plan.** – There is hereby created a Group Life Insurance Plan (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

- (1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or
- (2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;
- (3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2.

subject to a minimum of twenty-five thousand dollars (\$25,000) and to a maximum of fifty thousand dollars (\$50,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed 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 death benefit provided in this subsection (l) shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

- (1) After December 31, 1968 and after he has attained age 70; or
- (2) After December 31, 1969 and after he has attained age 69; or
- (3) After December 31, 1970 and after he has attained age 68; or
- (4) After December 31, 1971 and after he has attained age 67; or
- (5) After December 31, 1972 and after he has attained age 66; or
- (6) After December 31, 1973 and after he has attained age 65; or
- (7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before

January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

- (1) For the purpose of determining eligibility only, in this subsection "calendar year" shall mean any period of 12 consecutive months or, if less, the period covered by an annual contract of employment. For all other purposes in this subsection "calendar year" shall mean the 12 months beginning January 1 and ending December 31.
- (2) Last day of actual service shall be:
 - a. When employment has been terminated, the last day the member actually worked.
 - b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire, unless he is on approved leave of absence and is in service under the provisions of G.S. 135-4(h).
- (3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h).
- (4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, not to be less than twenty-five thousand dollars (\$25,000) nor to exceed fifty thousand dollars (\$50,000).

The provisions of the Retirement System pertaining to Administration, G.S. 135-6, and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

A member who is a beneficiary of the Disability Income Plan provided for in Article 6 of this Chapter shall be eligible for group life insurance benefits as provided in this subsection, notwithstanding that the member is no longer an employee or teacher or that

the member's death occurs after the eligibility period after active service. The basis of the death benefit payable hereunder shall be the higher of the death benefit computed as above or a death benefit based on compensation used in computing the benefit payable under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post-disability increases, all subject to the maximum dollar limitation as provided above. A member in receipt of benefits from the Disability Income Plan under the provisions of G.S. 135-112 whose right to a benefit accrued under the former Disability Salary Continuation Plan shall not be covered under the provisions of this paragraph.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars (\$5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars (\$6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance

deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 2. G.S. 128-27(13) reads as rewritten:

"(13) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump sum payment in the amount of six thousand dollars (\$6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 3. G.S. 128-27 is amended by adding a new subsection to read:

"(14) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 4. G.S. 120-4.27 reads as rewritten:

§ 120-4.27. Death benefit.

The designated beneficiary of a member who dies while in service after completing one year of creditable service shall receive a lump-sum payment of an amount equal to

the deceased member's highest annual salary, to a maximum of fifteen thousand dollars (\$15,000). For purposes of this death benefit "in service" means currently serving as a member of the North Carolina General Assembly.

The death benefit provided by this section shall be designated a group life insurance benefit payable under an employee welfare benefit plan that is separate and apart from the Retirement System but under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. The Board of Trustees is authorized to provide the death benefit in the form of group life insurance either by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in the State of North Carolina for the purpose of insuring the lives of qualified members in service, or by establishing or affiliating with a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars (\$5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars (\$6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after July 1, 2004, there

shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 5. G.S. 135-64(h) reads as rewritten:

"(h) Upon the death of a retired member on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars (\$6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 6. G.S. 135-64 is amended by adding a new subsection to read:

"(i) Upon the death of a retired member on or after July 1, 2004, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 7. This act becomes effective July 1, 2004, and applies to persons dying on or after that date.

In the General Assembly read three times and ratified this the 9th day of

July, 2004.

Became law upon approval of the Governor at 4:20 p.m. on the 2nd day of August, 2004.

H.B. 1345**Session Law 2004-148**

AN ACT TO AUTHORIZE STATE HIGHWAY PATROL MOTOR CARRIER ENFORCEMENT OFFICERS AND OFFICERS OF THE DIVISION OF MOTOR VEHICLES TO ENFORCE CERTAIN CRIMINAL LAWS, TO EXTEND THE TEMPORARY RULE-MAKING PERIOD FOR THE DEPARTMENT OF TRANSPORTATION TO ADOPT RULES FOR ELECTRONIC BIDDING, AND TO MAKE A TECHNICAL CORRECTION TO THE HIGHWAY TRUST FUND STATUTES AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-49.1. Supplemental police authority of Division officers.

(a) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors of the Division whom the Commissioner designates have the authority to enforce criminal laws under any of the following circumstances:

- (1) When they have probable cause to believe that a person has committed a criminal act in their presence and at the time of the violation they are engaged in the enforcement of laws otherwise within their jurisdiction.
- (2) When they are asked to provide temporary assistance by the head of a State or local law enforcement agency or his designee and the request is within the scope of the agency's subject matter jurisdiction.

While acting pursuant to this subsection, the Division officers shall have the same powers vested in law enforcement officers by statute or common law. When acting pursuant to subdivision (2) of this subsection, the Division officers shall not be considered an officer, employee, or agent of the State or local law enforcement agency or designee asking for temporary assistance. Nothing in this section shall be construed to expand the Division officers' authority to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject matter or territorial jurisdiction.

(b) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors of the Division whom the Commissioner designates have the authority to investigate drivers license fraud and identity thefts related to drivers license fraud and to make arrests for these offenses."

SECTION 2. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-49.2. Supplemental authority of State Highway Patrol Motor Carrier Enforcement officers.

(c) In addition to law enforcement authority granted in G.S. 20-49 or elsewhere, all sworn Motor Carrier Enforcement officers of the State Highway Patrol shall have the authority to enforce criminal laws under the following circumstances:

- (1) When they have probable cause to believe that a person has committed a criminal act in their presence and at the time of the violation they are engaged in the enforcement of laws otherwise within their jurisdiction.
- (2) When they are asked to provide temporary assistance by the head of a State or local law enforcement agency or his designee and the request is within the scope of the agency's subject matter jurisdiction.

While acting pursuant to this section, they shall have the same powers invested in law enforcement officers by statute or common law. When acting pursuant to subdivision (2) of this section, they shall not be considered an officer, employee, or agent for the State or local law enforcement agency or designee asking for temporary assistance. Nothing in this statute shall be construed to expand their authority to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject matter or territorial jurisdiction."

SECTION 3.(a) The Secretary of Transportation may adopt temporary rules in accordance with G.S. 150B-21.1 to implement the provisions of G.S. 136-28.1(k) governing the acceptance of bids by electronic means. The authority granted to the Secretary by this section shall expire when the permanent rules necessary to implement this provision are adopted.

SECTION 3.(b) This section becomes effective when it becomes law and expires on June 30, 2005.

SECTION 4. 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
...		
Greensboro Loop	Multilane facility on new location encircling City of Greensboro including interchanges with Cone Boulevard Extension and Lewis Fleming <u>Lewiston-Fleming Road</u> Extension	Guilford

...."

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

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:22 p.m. on the 2nd day of August, 2004.

H.B. 669

Session Law 2004-149

AN ACT TO AMEND THE DEFINITION OF A "PRIMARY CARE HOSPITAL" TO REFLECT FEDERAL REQUIREMENTS, TO IMPROVE THE QUALITY OF PATIENT CARE, TO PROTECT PATIENT-PHYSICIAN RELATIONSHIPS AND TO LIMIT MEDICAL DIRECTORS LIABILITY.

The General Assembly of North Carolina enacts:

**PART I. CHANGE DEFINITION OF PRIMARY CARE HOSPITAL
TO REFLECT FEDERAL REQUIREMENTS.**

SECTION 1.1. G.S. 131E-76 reads as rewritten:

"§ 131E-76. Definitions.

As used in this article, unless otherwise specified:

- (1) "Commission" means the North Carolina Medical Care Commission.
- (2) "Governing body" means the Board of Trustees, Board of Directors, partnership, corporation, association, person or group of persons who maintain and control the hospital. The governing body may or may not be the owner of the properties in which the hospital services are provided.
- (3) "Hospital" means any facility which has an organized medical staff and which is designed, used, and operated to provide health care, diagnostic and therapeutic services, and continuous nursing care primarily to inpatients where such care and services are rendered under the supervision and direction of physicians licensed under Chapter 90 of the General Statutes, Article 1, to two or more persons over a period in excess of 24 hours. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific health specialties. The term does not include private mental facilities licensed under Article 2 of Chapter 122C of the General Statutes, nursing homes licensed under G.S. 131E-102, and adult care homes licensed under G.S. 131D-2.
- (4) "Infirmary" means a unit of a school, or similar educational institution, which has the primary purpose to provide limited short-term health and nursing services to its students.
- (5) "Medical review committee" means a committee of a State or local professional society, of a medical staff of a licensed hospital or a committee of a peer review corporation or organization which is formed for the purpose of evaluating the quality, cost of, or necessity for hospitalization or health care, including medical staff credentialing.
- (6) ~~"Primary care hospital"~~ "Critical access hospital" means a hospital which has been designated as a ~~primary care~~ critical access hospital by the North Carolina Department of Health and Human Services, Office of Rural Health and Resource Development. To be designated as a ~~primary care~~ critical access hospital under this subdivision, the hospital must ~~be located in a rural community, provide primary care inpatient services that do not include inpatient surgery, and provide outpatient services which may include outpatient surgery. A primary care hospital shall have a maximum annual average daily census of 15 patients and may have psychiatric and long term care distinct part units. A primary care hospital must be part of a rural hospital network.~~ meet the requirements of federal law for certification as a critical access hospital.
- (7) "Rural hospital network" means an alliance of members that shall include at least one ~~primary care~~ critical access hospital and one other hospital. To qualify as a rural hospital network, the ~~members~~ critical access hospital must submit a comprehensive, written memorandum of

understanding to the Department of Health and Human Services for the Department's approval. The memorandum of understanding must include provisions for patient referral and transfer, a plan for network-wide emergency services, and a plan for sharing patient information and services between hospital members including medical staff credentialing, risk management, quality assurance, and peer review."

PART II. MEASURES TO IMPROVE THE QUALITY OF PATIENT CARE.

SECTION 2.1. G.S. 131E-101 is amended by adding a new subdivision to read:

"(8) "Quality assurance committee" means a committee, agency, or department of a state or local professional organization, of a medical staff of a licensed hospital, nursing home, of nurses or aides on the staff of a nursing home, or adult care home, of physicians having privileges within the nursing home, or adult care home, or of a peer review corporation or organization that is formed for the purpose of evaluating the quality, cost of, or necessity for health care services under applicable federal and State statutes, regulations, and rules."

SECTION 2.2. G.S. 131E-107 reads as rewritten:

"§ 131E-107. Medical-Quality assurance, medical, or peer review committees.

(a) A member of a duly appointed ~~medical~~ quality assurance, medical or peer review committee shall not be subject to liability for damages in any civil action on account of any act, statement or proceeding undertaken, made, or performed within the scope of the functions of the committee, if the committee member acts without malice or fraud, and if such peer review committee is approved and operates in accordance with G.S. 131E-108.

(b) The proceedings of a quality assurance, medical, or peer review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "Public records' defined", and 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 that results 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 be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. Documents otherwise available as public records within the meaning of G.S. 132-1 do not lose their status as public records merely because they were presented or considered during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action but cannot be asked about the person's testimony before the committee or any opinions formed as a result of the committee hearings."

SECTION 2.3. Chapter 131D of the General Statutes is amended by adding a new section to read:

"§ 131D-21.2. Quality assurance, medical, or peer review committees.

(a) A member of a duly appointed quality assurance, medical, or peer review committee shall not be subject to liability for damages in any civil action on account of any act, statement, or proceeding undertaken, made, or performed within the scope of the functions of the committee, if the committee member acts without malice or fraud, and if such peer review committee is approved and operates in accordance with G.S. 131D-21.1.

(b) The proceedings of a quality assurance, medical, or peer review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "'Public records' defined", and 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 that results 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 be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. Documents otherwise available as public records within the meaning of G.S. 132-1 do not lose their status as public records merely because they were presented or considered during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action but cannot be asked about the person's testimony before the committee or any opinions formed as a result of the committee hearings."

SECTION 2.4. G.S. 131E-76(5) reads as rewritten:

"(5) "Medical review committee" means ~~a committee of a State or local professional society, of a medical staff of a licensed hospital or a committee of a peer review corporation or organization which is~~ any of the following committees formed for the purpose of evaluating the quality, cost of, or necessity for hospitalization or health care, including medical staff ~~credentialing-credentialing~~:

- a. A committee of a state or local professional society.
- b. A committee of a medical staff of a hospital.
- c. A committee of a hospital or hospital system, if created by the governing board or medical staff of the hospital or system or operating under written procedures adopted by the governing board or medical staff of the hospital or system.
- d. A committee of a peer review corporation or organization."

SECTION 2.5. G.S. 131E-95 reads as rewritten:

"§ 131E-95. Medical review committee.

(a) A member of a duly appointed medical review committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement or proceeding undertaken, made, or performed within the scope of the functions of the committee.

(b) The proceedings of a medical review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "'Public records' defined", and shall not be subject to discovery or introduction into evidence in any civil action against a hospital, an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or

a provider of professional health services which results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. Documents otherwise available as public records within the meaning of G.S. 132-1 do not lose their status as public records merely because they were presented or considered during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action but cannot be asked about ~~his~~the person's testimony before the committee or any opinions formed as a result of the committee hearings.

(c) Information that is confidential and is not subject to discovery or use in civil actions under ~~subsection (b) of this section~~ may be released to a professional standards review organization that performs any accreditation or certification ~~function including the Joint Commission on Accreditation of Healthcare Organizations.~~ Information released under this ~~subdivision~~subsection shall be limited to that which is reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released under this ~~subdivision~~subsection retains its confidentiality and is not subject to discovery or use in any civil actions as provided under ~~subsection (b) of this section~~, and the standards review organization shall keep the information confidential subject to ~~that subsection.~~ this section."

SECTION 2.6. G.S. 90-21.22A reads as rewritten:

"§ 90-21.22A. Medical review and quality assurance committees.

(a) As used in this section, the following terms mean:

- (1) ~~"medical—Medical review committee"~~committee. – A ~~means—a~~ committee composed of health care providers licensed under this Chapter that is formed for the purpose of evaluating the quality of, cost of, or necessity for health care services, including provider credentialing. "Medical review committee" does not mean a medical review committee established under G.S. 131E-95.
- (2) "Quality assurance committee." – Risk management employees of an insurer licensed to write medical professional liability insurance in this State, who work in collaboration with health care providers licensed under this Chapter, and insured by that insurer, to evaluate and improve the quality of health care services.

(b) A member of a duly appointed medical review or quality assurance committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement, or proceeding undertaken, made, or performed within the scope of the functions of the committee.

(c) The proceedings of a medical review or quality assurance committee, the records and materials it produces, and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, 131E-309, or 58-2-100; and shall not be subject to discovery or introduction into evidence in any civil action against a provider of health care services who directly provides services and is licensed under this Chapter, a PSO licensed under Article 17 of Chapter 131E of the General

Statutes, an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or a hospital licensed under Chapter 122C or Chapter 131E of the General Statutes or that is owned or operated by the State, which civil action results 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 be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. Documents otherwise available as public records within the meaning of G.S. 132-1 do not lose their status as public records merely because they were presented or considered during proceedings of the committee. A member of the committee may testify in a civil action but cannot be asked about ~~his or her~~ the person's testimony before the committee or any opinions formed as a result of the committee hearings.

(d) This section applies to a medical review committee, including a medical review committee appointed by one of the entities licensed under Articles 1 through 67 of Chapter 58 of the General Statutes.

(e) Subsection (c) of this section does not apply to proceedings initiated under G.S. 58-50-61 or G.S. 58-50-62."

SECTION 2.7. G.S. 122C-191(e) reads as rewritten:

"(e) For purposes of peer review functions only:

- (1) A member of a duly appointed quality assurance committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement, or proceeding undertaken, made, or performed within the scope of the functions of the committee.
- (2) The proceedings of a quality assurance committee, the records and materials it produces, and the material it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, " 'Public records' defined," and shall not be subject to discovery or introduction into evidence in any civil action against a facility or a provider of professional health services that results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee, and nothing herein shall prevent a provider of professional health services from using such otherwise available information, documents or records in connection with an administrative hearing or civil suit relating to the medical staff membership, clinical privileges or employment of the provider. Documents otherwise available as public records within the meaning of G.S. 132-1 do not lose their status as public records merely because they were presented or considered during proceedings of the

committee. A member of the committee or a person who testifies before the committee may be subpoenaed and be required to testify in a civil action as to events of which the person has knowledge independent of the peer review process, but cannot be asked about ~~his~~ the person's testimony before the committee for impeachment or other purposes or about any opinions formed as a result of the committee hearings.

- (3) Peer review information that is confidential and is not subject to discovery or use in civil actions under ~~subdivision (2) of this subsection~~ this section may be released to a professional standards review organization that contracts with an agency of this State or the federal government to perform any accreditation or certification ~~function~~ function, including the Joint Commission on Accreditation of Healthcare Organizations. Information released under this subdivision shall be limited to that which is reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released under this subdivision retains its confidentiality and is not subject to discovery or use in any civil actions as provided under ~~subdivision (2) of this subsection~~ this subsection, and the standards review organization shall keep the information confidential subject to ~~that subdivision~~ this section."

SECTION 2.8. G.S. 122C-30 reads as rewritten:

"§ 122C-30. Peer review committee; immunity from liability; confidentiality.

For purposes of peer review functions of a ~~hospital facility~~ licensed under the provisions of this Chapter:

- (1) A member of a duly appointed peer review committee or quality assurance committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement, or proceeding undertaken, made, or performed within the scope of the functions of the committee; and
- (2) Proceedings of a peer review or quality assurance committee, the records and materials it produces, and the material it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "Public records' defined," and shall not be subject to discovery or introduction into evidence in any civil action against a facility or a provider of professional health services that results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee, and nothing herein shall prevent a provider of professional health services from using such otherwise available information, documents or records in connection with an administrative hearing or

civil suit relating to the medical staff membership, clinical privileges or employment of the provider. Documents otherwise available as public records within the meaning of G.S. 132-1 do not lose their status as public records merely because they were presented or considered during proceedings of the committee. A member of the committee or a person who testifies before the committee may be subpoenaed and be required to testify in a civil action as to events of which the person has knowledge independent of the peer review or quality assurance process, but cannot be asked about ~~his~~ the person's testimony before the committee for impeachment or other purposes or about any opinions formed as a result of the committee hearings."

SECTION 2.9. Article 1B of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-21.18A. Medical directors; liability limitation.

A medical director of a licensed nursing home shall not be named a defendant in an action pursuant to this Article except under any of the following circumstances:

- (1) Where allegations involve a patient under the direct care of the medical director.
- (2) Where allegations involve willful or intentional misconduct, recklessness, or gross negligence in connection with the failure to supervise, or other acts performed or failed to be performed, by the medical director in a supervisory or consulting role."

PART III. MEASURES TO PROTECT PATIENT-PHYSICIAN RELATIONSHIPS.

SECTION 3.1. Article 4 of Chapter 8C of the General Statutes is amended by adding a new section to read:

"Rule 413. Medical actions; statements to ameliorate or mitigate adverse outcome.

Statements by a health care provider apologizing for an adverse outcome in medical treatment, offers to undertake corrective or remedial treatment or actions, and gratuitous acts to assist affected persons shall not be admissible to prove negligence or culpable conduct by the health care provider in an action brought under Article 1B of Chapter 90 of the General Statutes."

PART IV. EFFECTIVE DATES.

SECTION 4.1. This act is effective when it becomes law. Sections 2.9 and 3.1 apply to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:26 p.m. on the 2nd day of August, 2004.

H.B. 1427

Session Law 2004-150

AN ACT TO AMEND THE STATUTES GOVERNING THE CULTIVATION OF SHELLFISH AND TO AUTHORIZE THE MARINE FISHERIES COMMISSION TO STUDY ISSUES RELATED TO THE CULTIVATION OF SHELLFISH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-201 reads as rewritten:

"§ 113-201. ~~Authority~~ Legislative findings and declaration of policy; authority of Marine Fisheries Commission.

(a) The General Assembly finds that shellfish cultivation provides increased seafood production and long-term economic and employment opportunities. The General Assembly also finds that shellfish cultivation provides increased ecological benefits to the estuarine environment by promoting natural water filtration and increased fishery habitats. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial shellfish cultivation in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.

(b) The Marine Fisheries Commission is empowered to make rules and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of shellfish in North Carolina both from public grounds and private beds.

(c) The Marine Fisheries Commission shall adopt rules to establish training requirements for persons applying for new shellfish cultivation leases. These training requirements shall be designed to encourage the productive use of shellfish cultivation leases. Training requirements established pursuant to this subsection shall not apply to an applicant who applies for a new shellfish cultivation lease if, at the time of the application, the applicant holds one or more shellfish cultivation leases and all of the leases meet the shellfish production requirements established by the Marine Fisheries Commission."

SECTION 2. G.S. 113-202(d) reads as rewritten:

"(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(d1) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If on the basis of the application information and map or diagram the Secretary deems that granting the lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial lease applications, must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) of this section and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00)."

SECTION 3. G.S. 113-202(j) reads as rewritten:

"(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of ~~April~~ July following the tenth anniversary of the granting of the lease. Renewal leases are issued for a period of 10 years ~~effective~~ from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of ~~fifty dollars (\$50.00)~~ one hundred dollars

(\$100.00). The rental for initial leases is one dollar (\$1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of ~~April~~ July following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after ~~said~~ that date, the rental is ~~five dollars (\$5.00)~~ ten dollars (\$10.00) per acre per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of ~~April~~ July must be paid in advance at the rate of one dollar (\$1.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year."

SECTION 4. G.S. 113-202(l) reads as rewritten:

"(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

- (1) Failure to pay the annual rent in advance.
- (2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.
- (3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.
- (4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.
- (5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.
- (6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.
- (7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.
- (8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

(11) The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions ~~of this paragraph~~ of this subsection, his leasehold shall not be terminated under subdivision (5) of ~~this subsection~~ subsection (l) of this section."

SECTION 5. G.S. 113-202.1(d) reads as rewritten:

"(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for ~~an initial~~ a new or renewal water column amendment is one hundred dollars (\$100.00) ~~an acre for each of the first four years for which the amendment is issued and five hundred dollars (\$500.00) an acre for the fifth year for which the amendment is issued.~~ The annual rental for a renewed water column

~~amendment is five hundred dollars (\$500.00) an acre. If a year for which a water column amendment is issued is for less than a 12-month period, the rental for that year shall be prorated based on the number of months remaining in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202."~~

SECTION 6. The Marine Fisheries Commission may study whether and how to establish a process by which shellfish cultivation leases that are terminated pursuant to G.S. 113-202(1) may be leased to an applicant for a shellfish cultivation lease without the leasehold reverting to public bottom. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 7. The Marine Fisheries Commission may study issues related to the corporate ownership of shellfish cultivation leases. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 8. Sections 1, 4, 6, 7, and 8 of this act are effective when this act becomes law. Sections 2, 3, and 5 of this act become effective July 1, 2005.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 4:30 p.m. on the 2nd day of August, 2004.

S.B. 137

Session Law 2004-151

AN ACT TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNICIPAL SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-536 reads as rewritten:

"§ 160A-536. Purposes for which districts may be established.

(a) Purposes. – The city council of any city may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city:

(1) Beach erosion control and flood and hurricane protection works.

(1a) Any service, facility, or function which the municipality may by law provide in the city, and including but not limited to placement of utility wiring underground, placement of period street lighting, placement of specially designed street signs and street furniture, landscaping, specialized street and sidewalk paving, and other appropriate improvements to the rights-of-way that generally preserve the character of an historic district; provided that this subdivision only applies to a service district which, at the time of its creation, had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter.

- (2) Downtown revitalization projects.
- (2a) Urban area revitalization projects.
- (2b) Transit-oriented development projects.
- (3) Drainage projects.
- (3a) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.
- (3b) Lighting at interstate highway interchange ramps.
- (4) Off-street parking facilities.
- (5) Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.

(b) **Downtown Revitalization Defined.** – As used in this section "downtown revitalization projects" include by way of illustration but not limitation improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements therefor, the construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street, and other improvements intended to relieve traffic congestion in the central city, improve pedestrian and vehicular access thereto, reduce the incidence of crime therein, and generally to further the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area. In addition, a downtown revitalization project may, in order to revitalize a downtown area and further the public health, safety, welfare, and convenience, include the provision of city services or functions in addition to or to a greater extent than those provided or maintained for the entire city. A downtown revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a ~~municipal~~ service district shall not prejudice the city's authority to undertake urban renewal projects in the same area.

(c) **Urban Area Revitalization Defined.** – As used in this section, the term "urban area revitalization projects" includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term "urban area" means an area that (i) is located within a city whose population exceeds 150,000 according to the most recent annual population statistics certified by the State Planning Officer and (ii) meets one or more of the following conditions:

- (1) It is the central business district of the city.

- (2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.
- (3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.
- (4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities.

(c1) Transit-Oriented Development Defined. – As used in this section, the term 'transit-oriented development' includes the provision within a public transit area of any service or facility listed in this subsection. A public transit area is an area within a one-fourth mile radius of any passenger stop or station located on a mass transit line. A mass transit line is a rail line along which a public transportation service operates or a busway or guideway dedicated to public transportation service. A busway is not a mass transit line if a majority of its length is also generally open to passenger cars and other private vehicles more than two days a week.

The following services and facilities are included in the definition of 'transit-oriented development' if they are provided within a transit area:

- (1) Any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section.
- (2) Passenger stops and stations on a mass transit line.
- (3) Parking facilities and structures associated with passenger stops and stations on a mass transit line.
- (4) Any other service or facility, whether public or public-private, that the city may by law provide or participate in within the city, including retail, residential, and commercial facilities.

(d) Contracts. – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this paragraph shall specify the purposes for which city moneys are to be used and shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period."

SECTION 2. G.S. 159I-30(a) reads as rewritten:

"(a) Authorization. – Any unit of local government may borrow money for the purpose of financing or refinancing its cost of the acquisition or construction of a project and may issue special obligation bonds and notes, including bond anticipation notes and renewal notes, pursuant to the provisions of this section and the applicable provisions of this Chapter for this purpose. ~~As used in this section, the term 'project' has the meaning provided in G.S. 159I-3 and also includes any of the following as defined in S.L. 1998-132: water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works.~~"

SECTION 3. G.S. 159I-30(g) reads as rewritten:

"(g) Definitions. – ~~As used~~ The following definitions apply in this section:

- (1) ~~"Credit facility" means an~~ Credit facility. – An agreement entered into by the unit with a bank, a savings and loan association or other

~~banking institution, association, or another banking institution; an insurance company, a reinsurance company, a surety company or other company, or another insurance institution, institution; a corporation, an investment banking firm or other firm, or another investment institution, institution; or any financial institution institution, providing 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 on any bonds or notes payable on demand or tender by the owner, in consideration of the unit agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement; the provider of any credit facility may be located either within or without the United States of America.~~

- (2) ~~"Par formula" means any Par formula. – Any provision or formula adopted by the unit to provide for the adjustment, from time to time of the interest rate or rates borne by any bonds or notes including:~~
- a. ~~A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible;~~
 - b. ~~A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time; or~~
 - c. ~~Any other provision as the unit may determine to be consistent with this section and the applicable provisions of this Chapter and does not materially and adversely affect the financial position of the unit and the marketing of the bonds or notes at a reasonable interest cost to the unit.~~
- (3) Project. – Any of the following:
- a. A project as defined in G.S. 159I-3.
 - b. Any of the following as defined in S.L. 1998-132: water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works.
 - c. With respect to a city, any service or facility authorized by G.S. 160A-536 and provided in a municipal service district.

(g1) Credit Facility. – The obligation of a unit of local government under a credit facility to repay any drawing thereunder may be made payable and otherwise secured, to the extent applicable, as provided in this section."

SECTION 4. G.S. 160A-543 reads as rewritten:

"§ 160A-543. Bonds authorized.

A city may ~~issue its general obligation bonds under the Local Government Bond Act~~ incur debt under general law to finance services, facilities or functions provided within a service district. If a proposed general obligation bond issue is required by law to be submitted to and approved by the voters of the city, and if the proceeds of the proposed bond issue are to be used in connection with a service that is or, if the bond issue is approved, will be provided only for one or more service districts or at a higher level in service districts than city wide, the proposed bond issue must be approved concurrently

by a majority of those voting throughout the entire city and by a majority of the total of those voting in all of the affected or to be affected service districts."

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

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 4:31 p.m. on the 2nd day of August, 2004.

H.B. 1213

Session Law 2004-152

AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PAY MONETARY COMPENSATION FOR REMOVAL OF LAWFULLY ERECTED OFF-PREMISES OUTDOOR ADVERTISING SIGNS AND TO AUTHORIZE LOCAL GOVERNMENTS TO ENTER INTO RELOCATION AND RECONSTRUCTION AGREEMENTS WITH OWNERS OF NONCONFORMING OFF-PREMISES OUTDOOR ADVERTISING SIGNS.

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-143. Regulation of outdoor advertising.

(a) As used in this section, the term 'off-premises outdoor advertising' includes off-premises outdoor advertising visible from the main-traveled way of any road.

(b) A county may require the removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off-premises outdoor advertising within the jurisdiction of the county in accordance with the applicable provisions of this Chapter.

(c) A county shall give written notice of its intent to require removal of off-premises outdoor advertising by sending a letter by certified mail to the last known address of the owner of the outdoor advertising and the owner of the property on which the outdoor advertising is located.

(d) No county may enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:

- (1) The county and the owner of the nonconforming off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (g) of this section.
- (2) The county and the owner of the nonconforming off-premises outdoor advertising enter into an agreement pursuant to subsection (k) of this section.
- (3) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace.
- (4) The removal is required for establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 153A-274, and the county allows the off-premises outdoor advertising to be relocated to a comparable location.

(5) The off-premises outdoor advertising is subject to removal pursuant to statutes, ordinances or regulations generally applicable to the demolition or removal of damaged structures.

(e) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary compensation shall be determined based on:

(1) The factors listed in G.S. 105-317.1(a); and

(2) The listed property tax value of the property and any documents regarding value submitted to the taxing authority.

(f) If the parties are unable to reach an agreement on monetary compensation to be paid by the county to the owner of the nonconforming off-premises outdoor advertising sign for its removal, and the county elects to proceed with the removal, the county may bring an action in superior court for a determination of the monetary compensation to be paid. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the county shall own the sign.

(g) In lieu of paying monetary compensation, a county may enter into an agreement with the owner of a nonconforming off-premises outdoor advertising sign to relocate and reconstruct the sign. The agreement shall include the following:

(1) Provision for relocation of the sign to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors shall be taken into consideration:

a. The size and format of the sign.

b. The characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the sign owner's cost to lease the replacement site.

c. The timing of the relocation.

(2) Provision for payment by the county of the reasonable costs of relocating and reconstructing the sign including:

a. The actual cost of removing the sign.

b. The actual cost of any necessary repairs to the real property for damages caused in the removal of the sign.

c. The actual cost of installing the sign at the new location.

d. An amount of money equivalent to the income received from the lease of the sign for a period of up to 30 days if income is lost during the relocation of the sign.

(h) For the purposes of relocating and reconstructing a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, a county, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it deems appropriate.

(i) If a county has offered to enter into an agreement to relocate a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, and within 120 days after the initial notice by the county the parties have not been able to agree that the site or sites offered by the county for relocation of the sign

are reasonably comparable or better than the existing site, the parties shall enter into binding arbitration to resolve their disagreements. Unless a different method of arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of three arbitrators. Each party shall select one arbitrator and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules shall apply to the arbitration unless the parties agree otherwise.

(j) If the arbitration results in a determination that the site or sites offered by the county for relocation of the nonconforming sign are not reasonably comparable to or better than the existing site, and the county elects to proceed with the removal of the sign, the parties shall determine the monetary compensation under subsection (e) of this section to be paid to the owner of the sign. If the parties are unable to reach an agreement regarding monetary compensation within 30 days of the receipt of the arbitrators' determination, and the county elects to proceed with the removal of the sign, then the county may bring an action in superior court for a determination of the monetary compensation to be paid by the county to the owner for the removal of the sign. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the county shall own the sign.

(k) Notwithstanding the provisions of this section, a county and an off-premises outdoor advertising sign owner may enter into a voluntary agreement allowing for the removal of the sign after a set period of time in lieu of monetary compensation. A county may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

(l) A county has up to three years from the effective date of an ordinance enacted under this section to pay monetary compensation to the owner of the off-premises outdoor advertising provided the affected property remains in place until the compensation is paid.

(m) This section does not apply to any ordinance in effect on the effective date of this section. A county may repeal or amend an ordinance in effect on the effective date of this section so long as an amendment to the existing ordinance does not reduce the period of amortization in effect on the effective date of this section.

(n) The provisions of this section shall not be used to interpret, construe, alter, or otherwise modify the exercise of the power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes.

(o) Nothing in this section shall limit a county's authority to use amortization as a means of phasing out nonconforming uses other than off-premises outdoor advertising."

SECTION 2. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-199. Regulation of outdoor advertising.

(a) As used in this section, the term 'off-premises outdoor advertising' includes off-premises outdoor advertising visible from the main-traveled way of any road.

(b) A city may require the removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off-premises outdoor advertising within the jurisdiction of the city in accordance with the applicable provisions of this Chapter.

(c) A city shall give written notice of its intent to require removal of off-premises outdoor advertising by sending a letter by certified mail to the last known address of the owner of the outdoor advertising and the owner of the property on which the outdoor advertising is located.

(d) No city may enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:

- (1) The city and the owner of the nonconforming off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (g) of this section.
- (2) The city and the owner of the nonconforming off-premises outdoor advertising enter into an agreement pursuant to subsection (k) of this section.
- (3) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace.
- (4) The removal is required for opening, widening, extending or improving streets or sidewalks, or for establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311, and the city allows the off-premises outdoor advertising to be relocated to a comparable location.
- (5) The off-premises outdoor advertising is subject to removal pursuant to statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.

(e) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary compensation shall be determined based on:

- (1) The factors listed in G.S. 105-317.1(a); and
- (2) The listed property tax value of the property and any documents regarding value submitted to the taxing authority.

(f) If the parties are unable to reach an agreement under subsection (e) of this section on monetary compensation to be paid by the city to the owner of the nonconforming off-premises outdoor advertising sign for its removal, and the city elects to proceed with the removal of the sign, the city may bring an action in superior court for a determination of the monetary compensation to be paid. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the city shall own the sign.

(g) In lieu of paying monetary compensation, a city may enter into an agreement with the owner of a nonconforming off-premises outdoor advertising sign to relocate and reconstruct the sign. The agreement shall include the following:

- (1) Provision for relocation of the sign to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors shall be taken into consideration:
 - a. The size and format of the sign.
 - b. The characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the sign owner's cost to lease the replacement site.
 - c. The timing of the relocation.

- (2) Provision for payment by the city of the reasonable costs of relocating and reconstructing the sign including:
- a. The actual cost of removing the sign.
 - b. The actual cost of any necessary repairs to the real property for damages caused in the removal of the sign.
 - c. The actual cost of installing the sign at the new location.
 - d. An amount of money equivalent to the income received from the lease of the sign for a period of up to 30 days if income is lost during the relocation of the sign.

(h) For the purposes of relocating and reconstructing a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, a city, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it deems appropriate.

(i) If a city has offered to enter into an agreement to relocate a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, and within 120 days after the initial notice by the city the parties have not been able to agree that the site or sites offered by the city for relocation of the sign are reasonably comparable to or better than the existing site, the parties shall enter into binding arbitration to resolve their disagreements. Unless a different method of arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of three arbitrators. Each party shall select one arbitrator and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules shall apply to the arbitration unless the parties agree otherwise.

(j) If the arbitration results in a determination that the site or sites offered by the city for relocation of the nonconforming sign are not comparable to or better than the existing site, and the city elects to proceed with the removal of the sign, the parties shall determine the monetary compensation under subsection (e) of this section to be paid to the owner of the sign. If the the parties are unable to reach an agreement regarding monetary compensation within 30 days of the receipt of the arbitrators' determination, and the city elects to proceed with the removal of the sign, then the city may bring an action in superior court for a determination of the monetary compensation to be paid by the city to the owner for the removal of the sign. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the city shall own the sign.

(k) Notwithstanding the provisions of this section, a city and an off-premises outdoor advertising sign owner may enter into a voluntary agreement allowing for the removal of the sign after a set period of time in lieu of monetary compensation. A city may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

(l) A city has up to three years from the effective date of an ordinance enacted under this section to pay monetary compensation to the owner of the off-premises outdoor advertising provided the affected property remains in place until the compensation is paid.

(m) This section does not apply to any ordinance in effect on the effective date of this section. A city may amend an ordinance in effect on the effective date of this section to extend application of the ordinance to off-premises outdoor advertising

located in territory acquired by annexation or located in the extraterritorial jurisdiction of the city. A city may repeal or amend an ordinance in effect on the effective date of this section so long as the amendment to the existing ordinance does not reduce the period of amortization in effect on the effective date of this section.

(n) The provisions of this section shall not be used to interpret, construe, alter or otherwise modify the exercise of the power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes.

(o) Nothing in this section shall limit a city's authority to use amortization as a means of phasing out nonconforming uses other than off-premises outdoor advertising."

SECTION 3. Section 1 of S.L. 2003-432 is repealed.

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

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 4:32 p.m. on the 2nd day of August, 2004.

H.B. 1636

Session Law 2004-153

AN ACT TO PROVIDE TAX CREDITS FOR DISPENSING AND PROCESSING RENEWABLE FUELS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.15 is amended by adding a new subdivision to read:

"(8) Renewable fuel. – Either of the following:

a. Biodiesel, as defined in G.S. 105-449.60.

b. Ethanol either unmixed or in mixtures with gasoline that are seventy percent (70%) or more ethanol by volume."

SECTION 2. Article 3B of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"§ 105-129.16D. Credit for constructing renewable fuel facilities.

(a) Dispensing Credit. – A taxpayer that constructs and installs and places in service in this State a qualified commercial facility for dispensing renewable fuel is allowed a credit equal to fifteen percent (15%) of the cost to the taxpayer of constructing and installing the part of the dispensing facility, including pumps, storage tanks, and related equipment, that is directly and exclusively used for dispensing or storing renewable fuel. A facility is qualified if the equipment used to store or dispense renewable fuel is labeled for this purpose and clearly identified as associated with renewable fuel.

The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in three equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the portion of the facility directly and exclusively used for dispensing or storing renewable fuel is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(b) Production Credit. – A taxpayer that constructs and places in service in this State a commercial facility for processing renewable fuel is allowed a credit equal to

twenty-five percent (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(c) No Double Credit. – A taxpayer that claims any other credit allowed under this Chapter with respect to the costs of constructing and installing a facility may not take the credit allowed in this section with respect to the same costs.

(d) Sunset. – This section is repealed effective for facilities placed in service on or after January 1, 2008."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2005.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 4:32 p.m. on the 2nd day of August, 2004.

S.B. 52

Session Law 2004-154

AN ACT TO CLARIFY THAT PERSONNEL MEDIATIONS BY THE UNIVERSITY OF NORTH CAROLINA SYSTEM ARE NOT CONSIDERED "PRACTICE LAW"; THAT RECORDS CREATED AS PART OF THOSE PERSONNEL MEDIATIONS ARE NOT PUBLIC RECORDS; AND THAT PARTICIPANTS IN THOSE PERSONNEL MEDIATIONS ARE TREATED SIMILARLY TO PARTICIPANTS IN OTHER MEDIATIONS, TO PROVIDE FOR OPEN DISCOVERY IN ALL FELONY CASES, AND TO MAKE CERTAIN OTHER AMENDMENTS TO THE LAWS REGARDING DISCOVERY IN CRIMINAL CASES.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-3.3. Mediation matters.

(a) Evidence of statements made and conduct occurring in a mediation of a personnel matter involving The University of North Carolina or a constituent institution shall not be subject to discovery and shall be inadmissible in any proceeding in any action on the same claim or any other claim, administrative or judicial, except in a proceeding to enforce a signed settlement agreement. Such evidence is not a public record under Chapter 132 of the General Statutes. Any evidence discoverable or admissible prior to the mediation shall remain discoverable and admissible, whether or not it is presented or discussed during mediation.

(b) No mediator, person training to become a mediator, nor participant in a mediation of a personnel matter involving The University of North Carolina or a constituent institution shall be compelled to testify or produce evidence with respect to

the mediation of the personnel matter in any civil proceeding, except to attest to the signing of any such agreement."

SECTION 2. G.S. 84-2.1 reads as rewritten:

"§ 84-2.1. "Practice law" defined.

The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation: Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition. The phrase "practice law" does not encompass the writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by ~~G.S. 7A-38.5~~ G.S. 7A-38.5 or by mediators of personnel matters for The University of North Carolina or a constituent institution."

SECTION 3. G.S. 15A-902 reads as rewritten:

"§ 15A-902. Discovery procedure.

(a) A party seeking discovery under this Article must, before filing any motion before a judge, request in writing that the other party comply voluntarily with the discovery request. A written request is not required if the parties agree in writing to voluntarily comply with the provisions of Article 48 of Chapter 15A of the General Statutes. Upon receiving a negative or unsatisfactory response, or upon the passage of seven days following the receipt of the request without response, the party requesting discovery may file a motion for discovery under the provisions of this Article concerning any matter as to which voluntary discovery was not made pursuant to request.

(b) To the extent that discovery authorized in this Article is voluntarily made in response to a ~~request,~~ request or written agreement, the discovery is deemed to have been made under an order of the court for the purposes of this Article.

(c) A motion for discovery under this Article must be heard before a superior court judge.

(d) If a defendant is represented by counsel, ~~he the defendant~~ may as a matter of right request voluntary discovery from the State under subsection (a) ~~above of this section~~ not later than the tenth working day after either the probable-cause hearing or the date ~~he the defendant~~ waives the hearing. If a defendant is not represented by counsel, or is indicted or consents to the filing of a bill of information before ~~he the defendant~~ has been afforded or waived a probable-cause hearing, ~~he the defendant~~ may as a matter of right request voluntary discovery from the State under subsection (a) ~~above of this section~~ not later than the tenth working day after the later of:

- (1) The defendant's consent to be tried upon a bill of information, or the service of notice upon ~~him the defendant~~ that a true bill of indictment has been found by the grand jury, or
- (2) The appointment of ~~counsel—whichever is later~~ counsel.

For the purposes of this subsection a defendant is represented by counsel only if counsel was retained by or appointed for ~~him~~the defendant prior to or during a probable-cause hearing or prior to execution by ~~him~~the defendant of a waiver of a probable-cause hearing.

(e) The State may as a matter of right request voluntary discovery from the defendant, when authorized under this Article, at any time not later than the tenth working day after disclosure by the State with respect to the category of discovery in question.

(f) A motion for discovery made at any time prior to trial may be entertained if the parties so stipulate or if the judge for good cause shown determines that the motion should be allowed in whole or in part."

SECTION 4. G.S. 15A-903 reads as rewritten:

"§ 15A-903. Disclosure of evidence by the State – Information subject to disclosure.

(a) ~~Statement of Defendant.—Upon motion of a defendant, the court must order the prosecutor:~~

(1) ~~To permit the defendant to inspect and copy or photograph any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody, or control of the State the existence of which is known or by the exercise of due diligence may become known to the prosecutor; and~~

(2) ~~To divulge, in written or recorded form, the substance of any oral statement relevant to the subject matter of the case made by the defendant, regardless of to whom the statement was made, within the possession, custody or control of the State, the existence of which is known to the prosecutor or becomes known to him prior to or during the course of trial; except that disclosure of such a statement is not required if it was made to an informant whose identity is a prosecution secret and who will not testify for the prosecution, and if the statement is not exculpatory. If the statement was made to a person other than a law enforcement officer and if the statement is then known to the State, the State must divulge the substance of the statement no later than 12 o'clock noon, on Wednesday prior to the beginning of the week during which the case is calendared for trial. If disclosure of the substance of defendant's oral statement to an informant whose identity is or was a prosecution secret is withheld, the informant must not testify for the prosecution at trial.~~

(b) ~~Statement of a Codefendant.—Upon motion of a defendant, the court must order the prosecutor:~~

(1) ~~To permit the defendant to inspect and copy or photograph any written or recorded statement of a codefendant which the State intends to offer in evidence at their joint trial; and~~

(2) ~~To divulge, in written or recorded form, the substance of any oral statement made by a codefendant which the State intends to offer in evidence at their joint trial.~~

(c) ~~Defendant's Prior Record.—Upon motion of the defendant, the court must order the State to furnish to the defendant a copy of his prior criminal record, if any, as is available to the prosecutor.~~

~~(d) Documents and Tangible Objects.— Upon motion of the defendant, the court must order the prosecutor to permit the defendant to inspect and copy or photograph books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, buildings and places, or any other crime scene, tangible objects, or copies or portions thereof which are within the possession, custody, or control of the State and which are material to the preparation of his defense, are intended for use by the State as evidence at the trial, or were obtained from or belong to the defendant.~~

~~(e) Reports of Examinations and Tests.— Upon motion of a defendant, the court must order the prosecutor to provide a copy of or to permit the defendant to inspect and copy or photograph results or reports of physical or mental examinations or of tests, measurements or experiments made in connection with the case, or copies thereof, within the possession, custody, or control of the State, the existence of which is known or by the exercise of due diligence may become known to the prosecutor. In addition, upon motion of a defendant, the court must order the prosecutor to permit the defendant to inspect, examine, and test, subject to appropriate safeguards, any physical evidence, or a sample of it, available to the prosecutor if the State intends to offer the evidence, or tests or experiments made in connection with the evidence, as an exhibit or evidence in the case.~~

~~(f) Statements of State's Witnesses.~~

- ~~(1) In any criminal prosecution brought by the State, no statement or report in the possession of the State that was made by a State witness or prospective State witness, other than the defendant, shall be the subject of subpoena, discovery, or inspection until that witness has testified on direct examination in the trial of the case.~~
- ~~(2) After a witness called by the State has testified on direct examination, the court shall, on motion of the defendant, order the State to produce any statement of the witness in the possession of the State that relates to the subject matter as to which the witness has testified. If the entire contents of that statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.~~
- ~~(3) If the State claims that any statement ordered to be produced under this section contains matter that does not relate to the subject matter of the testimony of the witness, the court shall order the State to deliver that statement for the inspection of the court in camera. Upon delivery the court shall excise the portions of the statement that do not relate to the subject matter of the testimony of the witness. With that material excised, the court shall then direct delivery of the statement to the defendant for his use. If, pursuant to this procedure, any portion of the statement is withheld from the defendant and the defendant objects to the withholding, and if the trial results in the conviction of the defendant, the entire text of the statement shall be preserved by the State and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this subsection, the court, upon application of the defendant, may recess proceedings in the trial for a period of time that it determines is reasonably required for the examination of the statement by the defendant and his preparation for its use in the trial.~~

- (4) ~~If the State elects not to comply with an order of the court under subdivision (2) or (3) to deliver a statement to the defendant, the court shall strike from the record the testimony of the witness, and direct the jury to disregard the testimony, and the trial shall proceed unless the court determines that the interests of justice require that a mistrial be declared.~~
- (5) ~~The term "statement," as used in subdivision (2), (3), and (4) in relation to any witness called by the State means~~
- ~~a. A written statement made by the witness and signed or otherwise adopted or approved by him;~~
 - ~~b. A stenographic, mechanical, electrical, or other recording, or a transcription thereof, that is a substantially verbatim recital of an oral statement made by the witness and recorded contemporaneously with the making of the oral statements.~~
- (g) ~~DNA Laboratory Reports.—The defendant shall have the right to obtain a copy of DNA laboratory reports provided to the district attorney revealing that there was a DNA match to the defendant that was derived from a CODIS match during a comparison search involving the defendant's DNA sample, in accordance with the procedure set forth in G.S. 15A-902.~~
- (a) Upon motion of the defendant, the court must order the State to:
- (1) Make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The term "file" includes the defendant's statements, the codefendants' statements, witness statements, investigating officers' notes, results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant. Oral statements shall be in written or recorded form. The defendant shall have the right to inspect and copy or photograph any materials contained therein and, under appropriate safeguards, to inspect, examine, and test any physical evidence or sample contained therein.
 - (2) Give notice to the defendant of any expert witnesses that the State reasonably expects to call as a witness at trial. Each such witness shall prepare, and the State shall furnish to the defendant, a report of the results of any examinations or tests conducted by the expert. The State shall also furnish to the defendant the expert's curriculum vitae, the expert's opinion, and the underlying basis for that opinion. The State shall give the notice and furnish the materials required by this subsection within a reasonable time prior to trial, as specified by the court.
 - (3) Give the defendant, at the beginning of jury selection, a written list of the names of all other witnesses whom the State reasonably expects to call during the trial. Names of witnesses shall not be subject to disclosure if the State certifies in writing and under seal to the court that to do so may subject the witnesses or others to physical or substantial economic harm or coercion, or that there is other particularized, compelling need not to disclose. If there are witnesses that the State did not reasonably expect to call at the time of the

provision of the witness list, and as a result are not listed, the court upon a good faith showing shall allow the witnesses to be called. Additionally, in the interest of justice, the court may in its discretion permit any undisclosed witness to testify.

(b) If the State voluntarily provides disclosure under G.S. 15A-902(a), the disclosure shall be to the same extent as required by subsection (a) of this section."

SECTION 5. G.S. 15A-904 reads as rewritten:

"§ 15A-904. Disclosure of evidence by the State – Certain reports information not subject to disclosure.

(a) ~~Except as provided in G.S. 15A-903(a), (b), (c) and (e), this Article does not require the production of reports, memoranda, or other internal documents made by the prosecutor, law enforcement officers, or other persons acting on behalf of the State in connection with the investigation or prosecution of the case, or of statements made by witnesses or prospective witnesses of the State to anyone acting on behalf of the State. The State is not required to disclose written materials drafted by the prosecuting attorney or the prosecuting attorney's legal staff for their own use at trial, including witness examinations, voir dire questions, opening statements, and closing arguments. Disclosure is also not required of legal research or of records, correspondence, reports, memoranda, or trial preparation interview notes prepared by the prosecuting attorney or by members of the prosecuting attorney's legal staff to the extent they contain the opinions, theories, strategies, or conclusions of the prosecuting attorney or the prosecuting attorney's legal staff.~~

(b) ~~Nothing in this section prohibits a prosecutor the State from making voluntary disclosures in the interest of justice. justice nor prohibits a court from finding that the protections of this section have been waived.~~

(c) This section shall have no effect on the State's duty to comply with federal or State constitutional disclosure requirements."

SECTION 6. G.S. 15A-905 reads as rewritten:

"§ 15A-905. Disclosure of evidence by the defendant – Information subject to disclosure.

(a) Documents and Tangible Objects. – If the court grants any relief sought by the defendant under ~~G.S. 15A-903(d)~~, G.S. 15A-903, the court must, upon motion of the State, order the defendant to permit the State to inspect and copy or photograph books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or copies or portions thereof which are within the possession, custody, or control of the defendant and which the defendant intends to introduce in evidence at the trial.

(b) Reports of Examinations and Tests. – If the court grants any relief sought by the defendant under ~~G.S. 15A-903(e)~~, G.S. 15A-903, the court must, upon motion of the State, order the defendant to permit the State to inspect and copy or photograph results or reports of physical or mental examinations or of tests, measurements or experiments made in connection with the case, or copies thereof, within the possession and control of the defendant which the defendant intends to introduce in evidence at the trial or which were prepared by a witness whom the defendant intends to call at the trial, when the results or reports relate to his testimony. In addition, upon motion of ~~a prosecutor, the State~~, the State, the court must order the defendant to permit the ~~prosecutor~~ State to inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it available to the defendant if the defendant intends to offer such evidence, or tests or

experiments made in connection with such evidence, as an exhibit or evidence in the case.

(c) Notice of Defenses, Expert Witnesses, and Witness Lists. – If the court grants any relief sought by the defendant under G.S. 15A-903, or if disclosure is voluntarily made by the State pursuant to G.S. 15A-902(a), the court must, upon motion of the State, order the defendant to:

(1) Give notice to the State of the intent to offer at trial a defense of alibi, duress, entrapment, insanity, mental infirmity, diminished capacity, self-defense, accident, automatism, involuntary intoxication, or voluntary intoxication. Notice of defense as described in this subdivision is inadmissible against the defendant. Notice of defense must be given within 20 working days after the date the case is set for trial pursuant to G.S. 7A-49.4, or such other later time as set by the court.

a. As to the defense of alibi, the court may order, upon motion by the State, the disclosure of the identity of alibi witnesses no later than two weeks before trial. If disclosure is ordered, upon a showing of good cause, the court shall order the State to disclose any rebuttal alibi witnesses no later than one week before trial. If the parties agree, the court may specify different time periods for this exchange so long as the exchange occurs within a reasonable time prior to trial.

b. As to only the defenses of duress, entrapment, insanity, automatism, or involuntary intoxication, notice by the defendant shall contain specific information as to the nature and extent of the defense.

(2) Give notice to the State of any expert witnesses that the defendant reasonably expects to call as a witness at trial. Each such witness shall prepare, and the defendant shall furnish to the State, a report of the results of the examinations or tests conducted by the expert. The defendant shall also furnish to the State the expert's curriculum vitae, the expert's opinion, and the underlying basis for that opinion. The defendant shall give the notice and furnish the materials required by this subdivision within a reasonable time prior to trial, as specified by the court.

(3) Give the State, at the beginning of jury selection, a written list of the names of all other witnesses whom the defendant reasonably expects to call during the trial. Names of witnesses shall not be subject to disclosure if the defendant certifies in writing and under seal to the court that to do so may subject the witnesses or others to physical or substantial economic harm or coercion, or that there is other particularized, compelling need not to disclose. If there are witnesses that the defendant did not reasonably expect to call at the time of the provision of the witness list, and as a result are not listed, the court upon a good faith showing shall allow the witnesses to be called. Additionally, in the interest of justice, the court may in its discretion permit any undisclosed witness to testify.

(d) If the defendant voluntarily provides discovery under G.S. 15A-902(a), the disclosure shall be to the same extent as required by subsection (c) of this section."

SECTION 7. G.S. 15A-907 reads as rewritten:

"§ 15A-907. Continuing duty to disclose.

If a party, ~~subject to compliance with an order issued~~ who is required to give or who voluntarily gives discovery pursuant to this Article, discovers prior to or during trial additional evidence ~~or witnesses~~, or decides to use additional ~~evidence~~, evidence or witnesses, and the evidence ~~or witness~~ is or may be subject to discovery or inspection under this Article, ~~he the party~~ must promptly notify the attorney for the other party of the existence of the additional evidence. ~~evidence or witnesses.~~"

SECTION 8. G.S. 15A-908(a) reads as rewritten:

"(a) Upon written motion of a party and a finding of good cause, which may include, but is not limited to a finding that there is a substantial risk to any person or physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment, the court may at any time order that discovery or inspection be denied, restricted, or deferred, or may make other appropriate orders. A party may apply ex parte for a protective order and, if an ex parte order is granted, the opposing party shall receive notice that the order was entered, but without disclosure of the subject matter of the order."

SECTION 9. G.S. 15A-910 reads as rewritten:

"§ 15A-910. Regulation of discovery – Failure to comply.

(a) If at any time during the course of the proceedings the court determines that a party has failed to comply with this Article or with an order issued pursuant to this Article, the court in addition to exercising its contempt powers may

- (1) Order the party to permit the discovery or inspection, or
- (2) Grant a continuance or recess, or
- (3) Prohibit the party from introducing evidence not disclosed, or
- (3a) Declare a mistrial, or
- (3b) Dismiss the charge, with or without prejudice, or
- (4) Enter other appropriate orders.

(b) Prior to finding any sanctions appropriate, the court shall consider both the materiality of the subject matter and the totality of the circumstances surrounding an alleged failure to comply with this Article or an order issued pursuant to this Article."

SECTION 10. G.S. 15A-959 reads as rewritten:

"§ 15A-959. Notice of defense of insanity; pretrial determination of insanity.

(a) If a defendant intends to raise the defense of insanity, ~~he the defendant~~ must within the time provided for the filing of pretrial motions under G.S. 15A-952 file a notice of his the defendant's intention to rely on the defense of insanity. insanity as provided in G.S. 15A-905(c) and, if the case is not subject to that section, within a reasonable time prior to trial. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make other appropriate orders.

(b) ~~If~~ In cases not subject to the requirements of G.S. 15A-905(c), if a defendant intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether ~~he the defendant~~ had the mental state required for the offense charged, ~~he the defendant~~ must within the time provided for the filing of pretrial motions under G.S. 15A-952(b) a reasonable time prior to trial file a notice of that intention. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make other appropriate orders.

(c) Upon motion of the defendant and with the consent of the State the court may conduct a hearing prior to the trial with regard to the defense of insanity at the time of

the offense. If the court determines that the defendant has a valid defense of insanity with regard to any criminal charge, it may dismiss that charge, with prejudice, upon making a finding to that effect. The court's denial of relief under this subsection is without prejudice to the defendant's right to rely on the defense at trial. If the motion is denied, no reference to the hearing may be made at the trial, and recorded testimony or evidence taken at the hearing is not admissible as evidence at the trial."

SECTION 11. G.S. 15A-501 is amended by adding a new subdivision to read:

"§ 15A-501. Police processing and duties upon arrest generally.

Upon the arrest of a person, with or without a warrant, but not necessarily in the order hereinafter listed, a law-enforcement officer:

- ...
- (6) Must make available to the State on a timely basis all materials and information acquired in the course of all felony investigations. This responsibility is a continuing affirmative duty."

SECTION 12. Sections 3 through 11 of this act become effective October 1, 2004, and apply to cases where the trial date set pursuant to G.S. 7A-49.4 is on or after October 1, 2004. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:34 p.m. on the 2nd day of August, 2004.

H.B. 1665

Session Law 2004-155

AN ACT TO REQUIRE THE DISPOSITIONAL HEARING OF A JUVENILE WHO IS IN RESIDENTIAL TREATMENT BE HELD IN THE COUNTY IN WHICH THE JUVENILE IS RECEIVING TREATMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1800 reads as rewritten:

"§ 7B-1800. Venue.

(a) A proceeding in which a juvenile is alleged to be delinquent or undisciplined shall be commenced and adjudicated in the district in which the offense is alleged to have occurred. When a proceeding is commenced in a district other than that of the juvenile's residence, the court shall proceed to adjudication in that ~~district.~~ district and, if the juvenile is in residential treatment or foster care in that district, the court shall conduct the dispositional hearing in that district as well, unless the judge enters an order, supported by findings of fact, that a transfer would serve the ends of justice or is in the best interests of the juvenile.

(b) ~~After~~ Except as provided in subsection (a) of this section, after adjudication, the following procedures shall be available to the court:

- (1) The court may transfer the proceeding to the court in the district where the juvenile resides for disposition.
- (2) Where the proceeding is not transferred under subdivision (1) of this section, the court shall immediately notify the chief district court judge in the district in which the juvenile resides. If the chief district court judge requests a transfer within five days after receipt of notification, the court shall transfer the proceeding.

- (3) Where the proceeding is not transferred under subdivision (1) or (2) of this section, the court, upon motion of the juvenile, shall transfer the proceeding to the court in the district where the juvenile resides for disposition. The court shall advise the juvenile of the juvenile's right to transfer under this section."

SECTION 2. This act becomes effective October 1, 2004, and applies to hearings conducted on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:35 p.m. on the 2nd day of August, 2004.

H.B. 1449**Session Law 2004-156**

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. 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 when it finds that adherence to the notice and hearing requirements of 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~~ a rule establishing review criteria as authorized by G.S. 131E-183(b) to implement ~~complement~~ 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~~ Plan, and the proposed rule and a notice of public hearing is submitted to the Codifier of Rules prior to the effective date of the Plan.
- (7) The need for the Wildlife Resources Commission to establish any of the following:
 - a. No wake zones.
 - b. Hunting or fishing seasons.
 - c. Hunting or fishing bag limits.
 - d. Management of public game lands as defined in G.S. 113-129(8a).
- (8) The need for the Secretary of State to implement the certification technology provisions of Article 11A of Chapter 66 of the General Statutes, to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association, Inc., for the purpose of promoting uniformity of state

- securities regulation, and to adopt rules governing the conduct of hearings pursuant to this Chapter.
- (9) The need for the Commissioner of Insurance to implement the provisions of G.S. 58-2-205.
 - (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.
 - (11) The need for the State Board of Elections 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:
 - a. In accordance with the provisions of G.S. 163-22.2.
 - b. To implement any provisions of state or federal law for which the State Board of Elections has been authorized to adopt rules.
 - c. The need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process.
 - (12) The need for an agency 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:
 - a. Repealed by Session Laws 2000-148, s. 5, effective July 1, 2002.
 - b. Repealed by Session Laws 2000-69, s. 5, effective July 1, 2003.
 - (13) (14) Reserved.
 - (15) The need for the Department of Health and Human Services 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.
 - (a1) ~~(16) (Expires July 1, 2005) Notwithstanding the provisions of subsection (a) of this section, The need for the Department of Transportation may to 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.~~

~~(a2)(a1) A recent act, change, regulation, or order as used in subdivisions (2) through (5) of subsection (a) of this section 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.

~~(a3)~~(a2) 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.

(a3) 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. 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 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 Rules Review Commission. 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 Commission or its designee may consider any information submitted by the agency or another person. If the Commission or its designee finds that 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 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.

(b1) If the Commission or its designee finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the 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 Commission or its designee must review the additional findings or new statement within five business days after the agency submits the additional findings or new statement. If the Commission or its designee again finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency and return the rule to the agency.

(b2) If an agency decides not to provide additional findings or submit a new statement when notified by the Commission or its designee that the agency's findings of need for a rule do not meet the required criteria or that the rule does not meet the required standards, the agency must notify the Commission or its designee of its 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.

(b3) 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) 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.

(c1) 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."

SECTION 2. G.S. 150B-21.3(b) reads as rewritten:

"(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~~ section, or unless the agency that adopted the rule specifies a later effective date."

SECTION 3. G.S. 150B-21.3(b2) reads as rewritten:

"(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~~ persons, no later than 5:00 P.M. of the day following the day the Commission approves the rule, 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. The Commission shall notify the agency that the rule is subject to legislative disapproval on the day following the day it receives 10 or more written objections. 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. If the Commission receives objections from 10 or more persons clearly requesting review by the legislature, and the rule objected to is one of a group of related rules adopted by the agency at the same time, the agency that adopted the rule may cause any of the other rules in the group to become effective as provided in subsection (b1) of this section by submitting a written statement to that effect to the Commission before the other rules become effective."

SECTION 4. G.S. 150B-33(b) is amended by adding the following subdivision to read:

"(12) Except as provided in G.S. 150B-36(d), accept a remanded case from an agency only when a claim for relief has been raised in the petition, and the decision of the administrative law judge makes no findings of fact or conclusions of law regarding the claim for relief, and the agency requests that the administrative law judge make findings of fact and conclusions of law as to the specific claim for relief. The administrative law judge may refuse to accept a remand if there is a sufficient record to allow the agency to make a final decision."

SECTION 5. Section 4 of this act becomes effective October 1, 2004, and applies to contested cases commenced 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 13th day of July, 2004.

Became law upon approval of the Governor at 4:35 p.m. on the 2nd day of August, 2004.

S.B. 657

Session Law 2004-157

AN ACT TO PROVIDE THAT OPERATORS OF TANNING EQUIPMENT SHALL PROVIDE WARNING STATEMENTS TO CONSUMERS REGARDING THE HAZARDS OF EXPOSURE TO ULTRAVIOLET RADIATION AND SHALL OBTAIN A CONSUMER'S ACKNOWLEDGMENT OF THE WARNING BEFORE THE CONSUMER'S INITIAL USE; TO PROVIDE THAT OPERATORS SHALL NOT ALLOW A PERSON 13 YEARS AND YOUNGER TO USE TANNING EQUIPMENT WITHOUT A WRITTEN PRESCRIPTION; TO

PROHIBIT OPERATORS AND OWNERS FROM CLAIMING THAT USING TANNING EQUIPMENT IS SAFE; TO PERMIT THE RADIATION PROTECTION COMMISSION TO ADOPT RULES IMPLEMENTING THIS ACT THAT SHALL BE ENFORCED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; TO DEFINE THE TERMS "CONSUMER", "TANNING FACILITY", AND "TANNING EQUIPMENT"; AND TO MAKE THIS ACT EFFECTIVE OCTOBER 1, 2004.

Whereas, on an average day in the United States, more than one million people visit indoor tanning salons for the purpose of tanning the skin; and

Whereas, studies have found that indoor tanning may be just as harmful to the skin as outdoor sun exposure; and

Whereas, most indoor tanning salon bulbs provide a significant amount of UVA and UVB radiation, both types of which are found in the outdoor sun and cause various types of damage to the skin that may lead to skin cancer; and

Whereas, past studies have suggested that tanning beds contribute to the incidence of melanoma, and a recent study in the Journal of the National Cancer Institute indicates that the use of tanning devices may also contribute to the incidence of nonmelanoma skin cancers; and

Whereas, dermatologists across the country are alarmed with the number of teenagers and young adults who continue to patronize tanning salons regardless of studies reporting the link between sun exposure and a wide array of skin cancers; and

Whereas, the Centers for Disease Control and Prevention reports an estimated 700 emergency department visits per year related to tanning salon exposure; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 104E of the General Statutes is amended by adding the following new section to read:

"§ 104E-9.1. Restrictions on use and operation of tanning equipment.

(a) Operators of tanning equipment and owners of tanning facilities subject to rules adopted pursuant to this Chapter shall comply with or ensure compliance with the following:

- (1) The operator shall provide to each consumer a warning statement that defines the potential hazards and consequences of exposure to ultraviolet radiation. Before allowing the consumer's initial use of the tanning equipment, the operator shall obtain the signature of the consumer on the warning statement acknowledging receipt of the warning.
- (2) The operator shall not allow a person 13 years and younger to use tanning equipment without a written prescription from the person's medical physician specifying the nature of the medical condition requiring the treatment, the number of visits, and the time of exposure for each visit.
- (3) Neither an operator nor an owner shall claim or distribute promotional materials that claim that using tanning equipment is safe or free from risk or that using tanning equipment will result in medical or health benefits.

(b) The Commission may adopt, and the Department shall enforce, rules to implement this section. The requirements of this section are in addition to other rules adopted pursuant to this Chapter that are applicable to tanning facilities and do not conflict with this section.

(c) As used in this section, unless the context requires otherwise, the term:

- (1) 'Consumer' means any individual who is provided access to a tanning facility that is subject to registration and regulation under this Chapter.
- (2) 'Tanning facility' means any location, place, area, structure, or business that provides consumers access to tanning equipment. For the purpose of this definition, tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.
- (3) 'Tanning equipment' means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation."

SECTION 2. This act becomes effective October 1, 2004.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 4:36 p.m. on the 2nd day of August, 2004.

S.B. 64

Session Law 2004-158

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO MODIFY THE MEMBERS OF THE CENTENNIAL AUTHORITY.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives; and

Whereas, the President Pro Tempore of the Senate and the Speaker of the House of Representatives have made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS.

SECTION 1.1.(a) Ken Morehead of Durham County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2006.

SECTION 1.1.(b) Barbara Berry of Wake County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2007.

SECTION 1.2. Robert Timberlake, Jr. of Wake County, Jimmy A. Harrell, Jr. of Camden County, and Deborah Mae Johnson of Sampson County are appointed to the North Carolina Agricultural Finance Authority for terms expiring on June 30, 2007.

SECTION 1.3.(a) Ralph Brown of Iredell County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2005.

SECTION 1.3.(b) Anita Pfaff of Forsyth County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2007.

SECTION 1.4. Henry Faircloth of Sampson County is appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2005.

SECTION 1.5.(a) Gladys Brooks of Buncombe County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2006.

SECTION 1.5.(b) Honor Moor of Buncombe County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2008.

SECTION 1.6. Lloyd Meekins, Jr. of Robeson County is appointed to the North Carolina Auctioneers Commission for a term expiring on June 30, 2006.

SECTION 1.7.(a) Dr. W. Eric Loch of Cumberland County is appointed to the North Carolina Board of Athletic Trainer Examiners for a term expiring on July 31, 2005.

SECTION 1.7.(b) Florence C. Moses of Wake County and Rick Proctor of Guilford County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on July 31, 2006.

SECTION 1.8. John Houser of Gaston County is appointed to the State Banking Commission for a term expiring on March 31, 2008.

SECTION 1.9. Frances Walker of Currituck County is appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2007.

SECTION 1.10.(a) Willy E. Stewart of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2005.

SECTION 1.10.(b) Alan Lassiter of Perquimans County is appointed to the State Building Commission for a term expiring on June 30, 2006.

SECTION 1.10.(c) Paul Boney of New Hanover County is appointed to the State Building Commission for a term expiring on June 30, 2007.

SECTION 1.11. George Matthew Wood of Pasquotank County, Reef C. Ivey of Wake County, Wendell Murphy of Duplin County, George Daniel of Caswell County, and Frank Daniels, III of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2007.

SECTION 1.12. Margaret Ann Biddle of Wake County and Beth Rector of Columbus County are appointed to the North Carolina Child Care Commission for terms expiring on June 30, 2006.

SECTION 1.13. Richard P. Coleman of Columbus County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on June 30, 2007, to fill the unexpired term of Alex McFadyen.

SECTION 1.14.(a) James Kennedy of Forsyth County and Lisa Privette of Harnett County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2005.

SECTION 1.14.(b) Deborah Simpson of Cumberland County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2006.

SECTION 1.15. Anna McCoy Smith of Forsyth County is appointed to the State Board of Cosmetic Art Examiners for a term expiring on June 30, 2005.

SECTION 1.16. Joyce Cutler of Beaufort County is appointed to the Crime Victims Compensation Commission for a term expiring on June 30, 2005.

SECTION 1.17. Wade Anders of Cumberland County, Terry Waterfield of Pasquotank County, Robert C. Lewis of Wake County, and Bonnie Boyette of Nash

County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2005.

SECTION 1.18. T. Craig Wright of Columbus County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2005.

SECTION 1.19. Marguerite P. Watts of Pasquotank County is appointed to the Disciplinary Commission of the North Carolina State Bar for a term expiring on June 30, 2007.

SECTION 1.20.(a) Barbara Arnold of Wayne County, Jan Capps of Durham County, Dr. Deborah Weismann of Orange County, and Lynn Bryant of Dare County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2005.

SECTION 1.20.(b) Effective September 1, 2004, Sharon Hunt of Robeson County, Senator Ellie Kinnaird of Orange County, Sergeant John Guard of Pitt County, The Honorable Colon Willoughby, Jr. of Wake County, and The Honorable Dina Foster of Cleveland County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2006.

SECTION 1.21. Thelma White of Guilford County and Margaret Wingate of Mecklenburg County are appointed to the North Carolina Board of Electrolysis Examiners for terms expiring on June 30, 2005.

SECTION 1.22. Dr. Steven Edward Landau of Johnston County is appointed to the Emergency Medical Services Advisory Council for a term expiring on June 30, 2005.

SECTION 1.23. Jon Hamm of Wake County is appointed to the e-NC Authority for a term expiring on December 31, 2004.

SECTION 1.24. The Honorable Thomas K. Jenkins of Macon County is appointed to the Environmental Management Commission for a term expiring on June 30, 2005.

SECTION 1.25. Reverend David Franzen of Durham County is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring on September 30, 2006.

SECTION 1.26. M. Durwood Stephenson of Johnston County, Reginald Kenan of Duplin County, and Dell Murphy of Duplin County are appointed to the North Carolina Global TransPark Authority for terms expiring on June 30, 2007.

SECTION 1.27. Bobby Bollinger of Mecklenburg County, Jo Anne Jeffries of Durham County, Emily Moore of Lenoir County, Marva M. Robinson of Brunswick County, and Louise Fisher of Wake County are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 2007.

SECTION 1.28. Effective July 1, 2004, if Senate Bill 1223 of the 2004 Regular Session of the 2003 General Assembly becomes law, Bruce Beasley of Wilson County is appointed to the North Carolina Health Insurance Innovations Commission for a term expiring on June 30, 2006.

SECTION 1.29. Kathryn Ahlport of Guilford County, Jesse Basnight of Orange County, Marian Duncan of Columbus County, Senator William Purcell of Scotland County, Senator Eric Reeves of Wake County, and Carolyn Tracy of Cumberland County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2005.

SECTION 1.30. David G. Jones of Orange County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on June 30, 2007.

SECTION 1.31. Patricia Garrett of Mecklenburg County, William D. Hedgepath of Cumberland County, and Robert Yatko of Gaston County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2007.

SECTION 1.32. Dean Carpenter of Gaston County, Gerald Holleman of Wake County, Ed Moran of Craven County, Jeffrey Null of Cumberland County, and Jeanne Tedrow of Wake County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2005.

SECTION 1.33. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2005.

SECTION 1.34. Effective September 1, 2004, Sean P. Devereux of Buncombe County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2008.

SECTION 1.35. Janet Smith of Forsyth County is appointed to the Information Resource Management Commission for a term expiring on June 30, 2007.

SECTION 1.36. Jane Griffin of Martin County is appointed to the State Judicial Council for a term expiring on December 31, 2005.

SECTION 1.37. Ronald Cox of Wake County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2006.

SECTION 1.38. Johnnie Burgess of Onslow County and Larry Garner of Mecklenburg County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2007.

SECTION 1.39. Wayne Paul Seville of Guilford County is appointed to the North Carolina Board of Massage and Bodywork Therapy for a term expiring on June 30, 2006.

SECTION 1.40. Bernard Sullivan of Gaston County and Porter McAteer of Gaston County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2005.

SECTION 1.41. Elizabeth Wellons of Johnston County is appointed to the Board of Trustees of the North Carolina Museum of Art for a term expiring on June 30, 2005.

SECTION 1.42. The Honorable Robert B. Spivey of Bertie County, Ray Hollowell of Dare County, Ernie Bowden of Dare County, Elsie Griggs Hollowell Pugh of Camden County, Ben Berry of Pasquotank County, and Larry Johnson of Camden County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005.

SECTION 1.43. Effective January 1, 2005, Cindy Morgan of Moore County is appointed to the North Carolina Board of Nursing for a term expiring December 31, 2008.

SECTION 1.44. Susan Neeley of Gaston County is appointed to the Board of Directors for the North Carolina Center for Nursing for a term expiring on June 30, 2006, to fill the unexpired term of Marti Davies.

SECTION 1.45. Wanda Boyette of Sampson County is appointed to the North Carolina Nursing Scholars Commission for a term expiring on June 30, 2007.

SECTION 1.46.(a) Edwin Holbrook of Cleveland County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2005.

SECTION 1.46.(b) Harriet Farris of Duplin County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2006.

SECTION 1.46.(c) Timothy L. Aydlett of Perquimans County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2007.

SECTION 1.47. Tannis F. Nelson of New Hanover County is appointed to the Board of Directors of the North Carolina Partnership for Children, Inc., for a term expiring on December 31, 2004, to fill the unexpired term of Susan Eaves.

SECTION 1.48. Robin Adams Anderson of Wake County is appointed to the State Personnel Commission for a term expiring on June 30, 2009.

SECTION 1.49. William Witherspoon of Wake County, Douglas Howey of Wake County, Tom C. Mehder of Mecklenburg County, Michael Richard Hare of Perquimans County, and Anne Coan of Wake County are appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 2005.

SECTION 1.49A.(a) Derryl Garner of Carteret County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2005.

SECTION 1.49A.(b) Laura Wilson of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2006.

SECTION 1.50. Cecilie Lewis of Wake County is appointed to the North Carolina Principal Fellows Commission for a term expiring on June 30, 2007.

SECTION 1.51.(a) Richard Allen of Anson County, Keith Shannon of Mecklenburg County, and Mack Donaldson of Guilford County are appointed to the Private Protective Services Board for terms expiring on June 30, 2006.

SECTION 1.51.(b) Sheriff Rodney Midgett of Dare County is appointed to the Private Protective Services Board for a term expiring on June 30, 2006, to fill the unexpired term of Sheriff Bert Austin.

SECTION 1.52. Terry Wheeler of Dare County is appointed to the Property Tax Commission for a term expiring on June 30, 2007.

SECTION 1.53. Richard Burton of Durham County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term expiring on June 30, 2005.

SECTION 1.54. David Walker of Robeson County is appointed to the Public Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2007.

SECTION 1.55. Tom Morrow of Wake County and Anthony Copeland of Wake County are appointed to the Board of Public Telecommunications Commissioners of the North Carolina Agency for Public Telecommunications for terms expiring on June 30, 2005.

SECTION 1.56. Beverly McCracken of Guilford County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2005.

SECTION 1.57. Robert Bleeker of Cumberland County and Murray Greason of Forsyth County are appointed to the North Carolina Railroad Board of Directors for terms expiring on June 30, 2007.

SECTION 1.58. Marsha Jordan of Lincoln County is appointed to the North Carolina Real Estate Commission for a term expiring on July 31, 2005.

SECTION 1.59. Bruce Rubin of Forsyth County and Ralph Webb of Pitt County are appointed to the North Carolina Respiratory Care Board for terms expiring on October 31, 2006.

SECTION 1.60.(a) Tod B. Clissold of Dare County and Moncie L. Daniels of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2005.

SECTION 1.60.(b) William Kealy of Dare County, The Honorable Bobby Owens of Dare County, and Joanne Williams of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2006.

SECTION 1.61.(a) David R. Twiddy of Pasquotank County, Thomas Hilliard, III of Wake County, and Jim Funderburke of Gaston County are appointed to the Rules Review Commission for terms expiring on June 30, 2005.

SECTION 1.61.(b) Robert Saunders of Wake County is appointed to the Rules Review Commission for a term expiring on June 30, 2006.

SECTION 1.62. David Smith of Durham County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term expiring on June 30, 2007.

SECTION 1.63. Kirk Alan Preiss of Wake County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2005.

SECTION 1.64. Russell Lee Stetson of Dare County is appointed to the North Carolina Seafood Industrial Park Authority for a term expiring on June 30, 2005.

SECTION 1.65. Michael Robertson of Lee County is appointed to the North Carolina Sheriff's Education and Training Standards Commission for a term expiring on June 30, 2005.

SECTION 1.66.(a) Edward Hearn of Wake County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2005.

SECTION 1.66.(b) Charles Martin of Franklin County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2007.

SECTION 1.67. Dr. Delilah Blanks of Columbus County and J. C. Batchelor, Jr. of Cumberland County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 1.68. Howard Nifong of Mecklenburg County and William Tesh of Cumberland County are appointed to the Structural Pest Control Committee for terms expiring on June 30, 2006.

SECTION 1.69. David Turpin of Wake County is appointed to the North Carolina Substance Abuse Professional Certification Board for a term expiring on June 30, 2005.

SECTION 1.70.(a) Dr. Joseph Jenkins of Cumberland County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 2005.

SECTION 1.70.(b) Glenn Marek of Orange County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 2006.

SECTION 1.71. John H. Cilley, IV of Catawba County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2005.

SECTION 1.72.(a) Colleen Lanier of Forsyth County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2007.

SECTION 1.72.(b) Franz Holscher of Gaston County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2008.

SECTION 1.73.(a) Wilson Martin of Iredell County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2005.

SECTION 1.73.(b) Michael Floyd of Mecklenburg County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2006.

SECTION 1.74. J.W. Davis of Henderson County, Jewell Wilson of Buncombe County, and Tommy Jenkins of Macon County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 1.75. John Pechmann of Cumberland County, Bobby Purcell of Wake County, Russell Maughn Hull, Jr. of Pasquotank County, and Eugene Price of Wayne County are appointed to the Wildlife Resources Commission for terms expiring on April 24, 2005.

SECTION 1.76. Belinda Gurkins of Pitt County, Leigh Horner of Orange County, and James R. Montgomery of Catawba County are appointed to the Wireless 911 Board for terms expiring on June 30, 2006.

PART II. SPEAKER'S RECOMMENDATIONS.

SECTION 2.1. Kaye Myers of Buncombe is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2008.

SECTION 2.2. C. Buren Williford of Wilson County is appointed to the State Building Commission for a term expiring on June 30, 2006.

SECTION 2.3. David Fountain of Wake County is appointed to the Board of Directors of the North Carolina Capital Facilities Finance Agency for a term expiring on July 31, 2005.

SECTION 2.4.(a) Ray Rouse of Wayne County and O. Temple Sloan of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2005.

SECTION 2.4.(b) Don Beason of Wake County and Michael Weeks of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2007.

SECTION 2.4.(c) Bob Seligson of Wake County is appointed to the Centennial Authority for a term expiring on June 30, 2008.

SECTION 2.5. Lynn Agee of Moore County and Lynn Marshbanks of Wake County are appointed to the Child Care Commission for terms expiring on June 30, 2006.

SECTION 2.6. Kevin Markham of Wake County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on June 30, 2008, to fill the unexpired term of John Mcguire.

SECTION 2.7.(a) Victor Nathan Shaw of Union County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2005, to fill the unexpired term of Howard Danieley.

SECTION 2.7.(b) Malcolm "Butch" Heyworth of Mecklenburg County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2008.

SECTION 2.8.(a) Jane Gray of Wake County and James E. Godfrey of Lenoir County are appointed to the Criminal Justice Information Network Governing Board for terms expiring on June 30, 2007.

SECTION 2.8.(b) Leslie Stanfield of New Hanover County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2005, to fill the unexpired term of Roy Holler.

SECTION 2.9. Effective September 1, 2004, Representative Marian McLawhorn of Pitt County, Mary Jo Morris of Moore County, David Mark Hullender of Cleveland County, Sheriff Phil Redmond of Iredell County, Aaron Alton Cox of Bladen County, Michael Turner of Forsyth County, and Julia Freeman of Haywood County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2006.

SECTION 2.10. Effective December 1, 2004, Gene Miller, Jr. of New Hanover County is appointed to the Economic Investment Committee for a term expiring on November 30, 2006.

SECTION 2.11. Effective September 1, 2004, Gertrude Brown of Guilford County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2007.

SECTION 2.12. Tracy L. Lawry of Mecklenburg County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2007.

SECTION 2.13. Herbert J. Crenshaw of Wake County is appointed to the e-NC Authority for a term expiring on December 31, 2005.

SECTION 2.14. Donnie Brewer of Pitt County is appointed to the Environmental Management Commission for a term expiring on June 30, 2006.

SECTION 2.15. Marvin O. Wilson, Jr. of Mecklenburg County is appointed to the State Fire and Rescue Commission for a term expiring on September 30, 2007.

SECTION 2.16. Carl Dobson of Buncombe County is appointed to the Governor's Advocacy Council for Persons with Disabilities for a term expiring on June 30, 2005, to fill the unexpired term of Janet Sellers.

SECTION 2.17. September 1, 2004, Adam Stein of Orange County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2008.

SECTION 2.18.(a) Jack Olsen of Moore County is appointed to the State Judicial Council for a term expiring on December 31, 2007.

SECTION 2.18.(b) Effective January 1, 2005, Dumont Clarke of Mecklenburg County is appointed to the State Judicial Council for a term expiring on December 31, 2009.

SECTION 2.19. If Senate Bill 852, 2003 Regular Session, becomes law, Jeanette K. Poole of Forsyth County, Judith Brunger of Wake County, Addison Neal Smith of Rowan County, and K. Dean Shatley of Buncombe County are appointed to License to Give Trust Fund Commission for terms expiring on December 31, 2006.

SECTION 2.20. Carolyn L. Smith of Wake County and Sabra Faires of Wake County are appointed to the Life Sciences Revenue Bond Authority for terms expiring on June 30, 2005.

SECTION 2.21.(a) Ralph Fuller of Pamlico County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2006.

SECTION 2.21.(b) Thomas F. Campion of Cumberland County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2007.

SECTION 2.22. Daisy C. Millett of Yadkin County is appointed to the North Carolina Board of Massage and Bodywork Therapy for a term expiring on June 30, 2006.

SECTION 2.23. Thomas Reese of Catawba County is appointed to the Natural Heritage Trust Fund Board of Trustees for a term expiring on December 31, 2010.

SECTION 2.24. The Honorable Frederick Yates of Perquimans County, Gene Minton of Halifax County, and the Honorable Zeno L. Edwards, Jr. of Beaufort County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2006.

SECTION 2.25. Martha Ann Harrell of Cumberland County is appointed to the North Carolina Board of Nursing for a term expiring on December 31, 2007.

SECTION 2.26. Jane Miles of Lenoir County is appointed to the North Carolina Center for Nursing Board of Directors for a term expiring on June 30, 2006.

SECTION 2.27. Nancy Oakley of Moore County and Dr. Kenneth L. Sadler of Forsyth County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on June 30, 2007.

SECTION 2.28. Jeff Etheridge of Columbus County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2006.

SECTION 2.29. John D. Greco of Guilford County is appointed to the Private Protective Services Board for a term expiring on June 30, 2006.

SECTION 2.30. Saint Claire Basnight of Dare County, William P. Massey of Mecklenburg County, and Joseph M. Bryan, Jr. of Guilford County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2006.

SECTION 2.31. Lee Settle of Moore County and Graham Bell of Gaston County are appointed to the Rules Review Commission for terms expiring on June 30, 2006.

SECTION 2.31A. Spencer Thompson of Mecklenburg County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term expiring on June 30, 2007, to fill the unexpired term of Carol Hughes.

SECTION 2.32. John B. Allison of Haywood County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2007.

SECTION 2.33. Jay Bryan of Orange County is appointed to the State Personnel Commission for a term expiring on June 30, 2010.

SECTION 2.34. Linda Rouse Sutton of Lenoir County and William W. Hill of Nash County are appointed to Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 2006.

SECTION 2.35. Vernon Thompson of Davie County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2008.

SECTION 2.36. Sheriff Earl "Moose" Butler of Cumberland County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term expiring on June 30, 2007.

SECTION 2.37. Allan Dameron of Brunswick County is appointed to the North Carolina Turnpike Authority for a term expiring on January 14, 2009.

SECTION 2.38. Glen Endreson of Dare County and David Hutson of Durham County are appointed to the Well Contractors Certification Commission for terms expiring on June 30, 2007.

PART III. CENTENNIAL AUTHORITY.

SECTION 3.1. The prefatory language of G.S. 160A-480.3(b) reads as rewritten:

"(b) Membership. – An authority shall have ~~eight~~ 10 or ~~19~~ 21 members. Members shall be chosen for terms as follows:"

SECTION 3.2. G.S. 160A-480.3(b)(1) reads as rewritten:

"(1) ~~Four~~ Five shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, at least one of whom shall be a resident of the territorial jurisdiction of the authority, and at least one other of whom shall have been recommended by the board of trustees of the constituent institution of The University of North Carolina whose main campus is located within the county;"

SECTION 3.3. G.S. 160A-480.3(b)(2) reads as rewritten:

"(2) ~~Four~~ Five shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, at least one of whom shall be a resident of the territorial jurisdiction of the authority, and at least one other of whom shall have been recommended by the Board of Trustees of the constituent institution of The University of North Carolina whose main campus is located within the county; and"

PART IV. EFFECTIVE DATE.

SECTION 4.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only.

SECTION 4.2. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 4:36 p.m. on the 2nd day of August, 2004.

H.B. 1519**Session Law 2004-159**

AN ACT TO PREVENT CRIMINALS FROM PROFITING FROM THEIR CRIMES AND TO BETTER ENABLE CRIME VICTIMS TO SATISFY RESTITUTION ORDERS AND CIVIL JUDGMENTS ENTERED AGAINST THEIR OFFENDERS FROM THE OFFENDERS' ASSETS, WHICH MAY INCLUDE PROFIT FROM CRIME.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 through 25 of Chapter 15B of the General Statutes are redesignated as Article 1 of Chapter 15B. The Revisor of Statutes is authorized to make changes in the newly designated Article 1 that will reflect the results of the recodification.

SECTION 2. Chapter 15B of the General Statutes is amended by adding a new Article to read:

"Article 2.

"The Crime Victims Financial Recovery Assistance Act.**"§ 15B-30. Declaration of policy and purpose.**

The General Assembly of North Carolina hereby declares as a matter of public policy that:

- (1) No person who commits a crime should thereafter gain monetary profit as the result of committing the crime.
- (2) Victims of crime have a special relationship to any profit from the crime committed against them, including the personal belongings and memorabilia of a convicted felon whose criminal actions and resulting notoriety enhance the value of those belongings and memorabilia.
- (3) To the extent profit from crime would not have been realized but for an offender's commission of illegal acts, an offender does not have an equitable interest in the profit and allowing the offender to retain the profit would result in the offender's unjust enrichment.

The General Assembly finds that the State has a compelling interest in ensuring that persons convicted of crimes do not profit from those crimes, and that victims of crime are compensated by those who have harmed them.

The General Assembly further finds that crime victims have difficulty satisfying restitution orders or civil judgments entered against their offenders because the victims often lack the expertise and resources to identify or locate assets that an offender may have.

In order to carry out this public policy and to satisfy these compelling interests, the General Assembly has enacted the provisions of this Article providing a mechanism by which crime victims are notified of the existence of an offender's assets and are authorized to bring an action to recover those assets.

"§ 15B-31. Definitions.

The following definitions apply in this Article:

- (1) Commission. – The Crime Victims Compensation Commission established under G.S. 15B-3.
- (2) Convicted. – A finding or verdict of guilty by a jury or by entry of a plea of guilty or no contest, or a finding of not guilty by reason of insanity.
- (3) Crime memorabilia. – Any tangible property belonging to or that belonged to an offender prior to conviction, the value of which is increased by the notoriety gained from the conviction of a felony.
- (4) Earned income. – Income derived from one's own labor or through active participation in a business, as distinguished from income including dividends or investments.
- (5) Eligible person. – Any of the following:
 - a. A victim of the crime for which the offender was convicted.
 - b. A surviving spouse, parent, or child of a deceased victim of the crime for which the offender was convicted.
 - c. Any other person dependent for the person's principal support upon a deceased victim of the crime for which the offender was convicted.

However, 'eligible person' does not include the offender or an accomplice to the offender.

- (6) Felony. – An offense defined as a felony by any North Carolina or United States statute that was committed in North Carolina and that resulted in physical or emotional injury, or death, to another person.
- (7) Funds of an offender. – All funds and property received from any source by an offender, excluding child support and earned income, where the offender:
 - a. Is an inmate serving a sentence with the Department of Correction or a prisoner confined at a local correctional facility or federal correctional institute, and includes funds that a superintendent, sheriff, or municipal official receives on behalf of an inmate or prisoner and deposits in an inmate account to the credit of the inmate or deposits in a prisoner account to the credit of the prisoner; or
 - b. Is not an inmate or prisoner but who is serving a sentence of probation, conditional discharge, or post-release supervision.
- (8) Offender. – A person who has been convicted of a felony or that person's legal representative or assignee.
- (9) Profit from crime. – Any income, assets, or property obtained through or generated from the commission of a crime for which the offender was convicted, including any income, assets, or property generated from the sale of crime memorabilia or obtained through the use of unique knowledge obtained during the commission of, or in preparation for the commission of the crime, as well as any gain from the sale, conversion, or exchange of the income, assets, or property. 'Profit from crime' does not include voluntary donations or contributions to an offender used to assist in the appeal of a conviction, provided the donation or contribution is not given in exchange for something of material value.
- (10) Victim. – Any natural person who suffers physical or emotional injury, or the threat of physical or emotional injury, as the result of the commission of a felony.

"§ 15B-32. Notice of contract or agreement to pay.

- (a) Notice to Commission. –
 - (1) Every person, firm, corporation, partnership, association, or other legal entity, or representative of a person, firm, corporation, partnership, association, or entity that knowingly contracts for, pays, or agrees to pay to an offender (i) profit from crime or (ii) funds of an offender where the value or aggregate value of the payment or payments exceeds ten thousand dollars (\$10,000) shall submit to the Commission a copy of the contract or reduce to writing the terms of any oral agreement or obligation to pay as soon as practicable after discovering the payment or intended payment constitutes profit from crime or funds of an offender.
 - (2) Whenever the payment or obligation to pay involves funds of an offender that a superintendent, sheriff, or municipal officer (i) receives or will receive on behalf of an inmate serving a sentence with the Department of Correction or a prisoner confined at a local correctional facility, (ii) deposits or will deposit in an inmate account to the credit of an inmate or prisoner, and (iii) the value of such funds exceeds or

will exceed ten thousand dollars (\$10,000), the State or subdivision of the State shall also give written notice to the Commission.

(3) Whenever the State or a subdivision of the State makes a payment or has an obligation to pay funds of an offender and the value of such funds exceeds or will exceed ten thousand dollars (\$10,000), the State or subdivision of the State shall also give written notice to the Commission.

(4) In all other instances where the payment or obligation to pay involves funds of an offender and the value or aggregate value of the funds exceeds or will exceed ten thousand dollars (\$10,000), the offender who receives or will receive the funds shall give written notice to the Commission.

(b) Notice to Eligible Persons. – The Commission shall, upon receipt of a notice of a contract, an agreement to pay, or payment of profit from crime or funds of an offender, notify in writing by certified mail, return receipt requested, all known eligible persons where the eligible persons' names and addresses are known to the Commission. The Commission may, in its discretion, provide for additional notice as it deems necessary.

"§ 15B-33. Penalties.

(a) Assessment and Civil Penalty for Failure to Give Notice. – Any person or entity, other than the State, a subdivision of the State, or a person who is a superintendent, sheriff, or municipal official, who willfully fails to give notice as required by G.S. 15B-32 is subject to an assessment of up to the amount of the payment or obligation to pay and a civil penalty of up to one thousand dollars (\$1,000) or ten percent (10%) of the payment or obligation to pay, whichever is greater.

(b) Notice and Opportunity to Be Heard Required. – After providing notice and opportunity to be heard in accordance with the provisions of Chapter 150B of the General Statutes, the Commission may order the respondent to pay the assessment and civil penalty imposed by this section.

(c) Failure to Pay. – If a respondent fails to pay the assessment and civil penalty imposed by this section within sixty (60) days of being ordered to pay, the assessment and civil penalty may be recovered from the respondent by an action brought by the attorney general, upon the request of the Commission, in any court of competent jurisdiction.

(d) Establishment of Escrow Account; Notice to Eligible Persons. – The Commission shall deposit the assessment in an escrow account pending the expiration of the three-year statute of limitations authorized by G.S. 15B-34 to preserve the funds to satisfy a civil judgment in favor of an eligible person to whom the failure to give notice relates. The Commission shall notify any eligible person who may have a claim against the offender of the existence of the funds being held in escrow. The notice shall instruct the eligible person that the person may have a right to commence a civil action against the offender as well as any other information deemed necessary by the Commission.

(e) Satisfaction of Judgment from Escrow Account. – Upon an eligible person's presentation to the Commission of a civil judgment for damages arising out of the offense for which the offender was convicted, the Commission shall satisfy up to one hundred percent (100%) of that judgment, including costs and disbursements as taxed by the clerk of the court, with the escrowed fund obtained pursuant to this section, but in no event shall the amount of all judgments, costs, and disbursements satisfied from the

escrowed funds exceed the amount in escrow. If more than one eligible person indicates to the Commission that the eligible person intends to commence or has commenced a civil action against the offender, the Commission shall delay satisfying any judgment, costs, and disbursements until the claims of all eligible persons are reduced to judgment. If the aggregate of all judgments, costs, and disbursement obtained exceeds the amount of escrowed funds, the amount used to partially satisfy each judgment shall be reduced to a pro rata share.

(f) Return of Unclaimed Escrowed Funds. – After the expiration of the three-year statute of limitations period established in G.S. 15B-34, the Commission shall review all judgments that have been satisfied from the escrowed funds. In the event no claim was filed prior to the expiration of the three-year statute of limitations, the Commission shall return the escrowed amount to the respondent. In the event a claim or claims are pending at the expiration of the statute of limitations, the funds shall remain escrowed until the final determination of all claims to allow the Commission to satisfy any judgment which may be obtained by the eligible person after which time any remaining escrowed amount shall be returned to the respondent.

(g) Remittance of Proceeds from Civil Penalty. – The Commission shall remit the clear proceeds of the civil penalty of up to one thousand dollars (\$1,000) or ten percent (10%) of the payment or obligation to pay, whichever is greater, assessed under this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ 15B-34. Civil action to recover profits or funds; responsibilities of the Commission.

(a) Civil Action. – Notwithstanding any inconsistent provision of law with respect to the timely bringing of an action, an eligible person may, within three years of the discovery of any profit from crime or funds of an offender, bring a civil action in a court of competent jurisdiction against an offender for damages arising out of the offense for which the offender was convicted.

(b) Notice by Eligible Persons. – Upon filing an action under subsection (a) of this section, the eligible person shall give notice to the Commission of the filing by delivering a copy of the summons and complaint to the Commission. The eligible person may also give notice to the Commission prior to filing the action so as to allow the Commission to apply for any appropriate provisional remedies, which are otherwise authorized to be invoked prior to the commencement of an action.

(c) Responsibilities of Commission. – Upon receipt of a copy of a summons and complaint, or upon receipt of notice from the eligible person prior to filing an action, the Commission shall immediately take action to:

- (1) Notify all other known eligible persons of the filing of the civil action by certified mail, return receipt requested, where the eligible persons' names and addresses are known to the Commission.
- (2) Provide, in its discretion, for additional notice as it deems necessary.
- (3) Avoid the wasting of the assets identified in the complaint as the profit from crime or funds of an offender in any manner consistent with subsection (d) of this section.

(d) Standing; Authority to Avoid Wasting of Assets. – The Commission has standing and, acting on its own behalf or on behalf of all eligible persons, shall have the right to apply for any and all provisional remedies that are also otherwise available to the plaintiff in the civil action brought under subsection (a) of this section, including attachment, injunction, constructive trust, and receivership. On a motion for a

provisional remedy, the moving party shall state whether any other provisional remedy has previously been sought in the same action against the same defendant. The court may require the moving party to elect between those remedies to which it would otherwise be entitled.

"§ 15B-35. Subrogation by the Crime Victims Compensation Fund.

Claims on profit from crime or funds of an offender are subject to subrogation by the Crime Victims Compensation Fund pursuant to G.S. 15B-18.

"§ 15B-36. Conviction overturned or pardon issued.

If profit from crime is subject to a provisional remedy on behalf of eligible persons and the conviction for the criminal offense from which profit from crime is realized is reversed, vacated, or set aside, or if the offender has been granted an unconditional pardon of innocence for the criminal offense, those funds shall be returned to the rightful owner.

"§ 15B-37. Evasive action void.

Any action taken by an offender, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purpose of this Article shall be void as against the public policy of this State."

SECTION 3. G.S. 1-15.1(a) reads as rewritten:

"(a) Notwithstanding any other provision of law, if a defendant is convicted of a criminal offense and is ordered by the court to pay restitution or restitution is imposed as a condition of probation, special probation, work release, or parole, then all applicable statutes of limitation and statutes of repose, except as established herein, are tolled for the period set forth in this subsection for purposes of any civil action brought by an aggrieved party against that defendant for damages arising out of the offense for which the defendant was convicted. Any statute of limitation or repose applicable in the civil action shall be tolled from the time of entry of the court order

- (1) Requiring that restitution be made,
- (2) Making restitution a condition of probation or special probation, or
- (3) Recommending that restitution be made a condition of work release or parole,

and until the defendant has paid in full the amount of restitution ordered or imposed. ~~Provided, however, in no event shall~~ Except as provided in G.S. 15B-34, an action to recover damages arising out of the criminal offense shall not be commenced more than 10 years from the last act of the defendant giving rise to the cause of action."

SECTION 4. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 5. This act becomes effective October 1, 2004, and applies to contracts for profit from crime entered into on or after that date or funds of an offender that have accrued on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:43 p.m. on the 2nd day of August, 2004.

H.B. 1429

Session Law 2004-160

AN ACT TO REQUIRE FISHERY MANAGEMENT PLANS TO ACHIEVE SUSTAINABLE HARVEST RATHER THAN OPTIMAL YIELD AND TO SPECIFY A TIME PERIOD FOR ENDING OVERFISHING AND REBUILDING A FISHERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-129(12a) and G.S. 113-129(12b) are repealed.

SECTION 2. G.S. 113-129 is amended by adding three new subdivisions to read:

"(12c) Overfished. – The condition of a fishery that occurs when the spawning stock biomass of the fishery is below the level that is adequate for the recruitment class of a fishery to replace the spawning class of the fishery.

(12d) Overfishing. – Fishing that causes a level of mortality that prevents a fishery from producing a sustainable harvest.

... (14a) Sustainable harvest. – The amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished."

SECTION 3. G.S. 113-182.1(b) reads as rewritten:

"(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

- (1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.
- (2) Recommend management actions pertaining to the fishery or fisheries.
- (3) Include conservation and management measures ~~that prevent overfishing, while achieving, on a continuing basis, the optimal yield from each fishery.~~ that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.
- (4) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for ending overfishing and achieving a sustainable harvest. This subdivision shall only apply to a plan for a fishery that is overfished. This subdivision shall not apply to a plan for a fishery where the biology of the fish or environmental conditions make ending overfishing and achieving a sustainable harvest within 10 years impracticable."

SECTION 4. G.S. 113-182.1(g) reads as rewritten:

"(g) To achieve ~~optimal yield~~ sustainable harvest under a Fishery Management Plan, the Marine Fisheries Commission may include in the Plan a recommendation that

the General Assembly limit the number of fishermen authorized to participate in the fishery. The Commission may recommend that the General Assembly limit participation in a fishery only if the Commission determines that ~~optimal yield~~ sustainable harvest cannot otherwise be achieved. In determining whether to recommend that the General Assembly limit participation in a fishery, the Commission shall consider all of the following factors:

- (1) Current participation in and dependence on the fishery.
- (2) Past fishing practices in the fishery.
- (3) Economics of the fishery.
- (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- (5) Cultural and social factors relevant to the fishery and any affected fishing communities.
- (6) Capacity of the fishery to support biological parameters.
- (7) Equitable resolution of competing social and economic interests.
- (8) Any other relevant considerations."

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

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 4:46 p.m. on the 2nd day of August, 2004.

S.B. 1152

Session Law 2004-161

AN ACT CONCERNING STUDIES AND OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known as "The Studies Act of 2004".

PART II. LEGISLATIVE RESEARCH COMMISSION

SECTION 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 2003 or 2004 Regular Session of the 2003 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The following groupings are for reference only:

- (1) Government Regulatory Issues:
 - a. Fire safety in local confinement facilities (H.B. 1050 – Frye)
 - b. Regulating ticket brokers (H.B. 1072 – Miner, Gibson; S.B. 556 – Hoyle)
 - c. Light pollution (Queen)
 - d. Urban cores (Queen)
 - e. Legislative and executive branch lobbying (Kinnaird; H.B. 1780 – Hackney, H.B. 1788 – Gibson, McComas, H.B. 1789)
 - f. Alcoholic beverage control (Gibson)

- g. State fire protection (S.B. 1377 – Kinnaird; H.B. 1648 – Insko, Hackney)
- h. Landscape/irrigation contractors (H.B. 947 – Gibson, McHenry)
- i. Regulations regarding massage therapy (Gibson)
- (2) Transportation Issues:
 - a. Purchasing alternative-fuel or low-emission school buses (S.J.R. 768 – Bingham)
 - b. Commercial drivers license requirements and emergency situations (Sloan)
 - c. Handheld cell phone use while driving (H.B. 623 – Bowie, Luebke, McAllister)
 - d. State ports (H.B. 1249 – McComas)
 - e. Towing laws, salvage laws, and lienholder notification when vehicles are abandoned or seized (Crawford)
- (3) Consumer Issues:
 - a. Debt collection practices (Rand; H.B. 1039 – Weiss)
- (4) Insurance Issues:
 - a. Workers' compensation/agricultural employment (S.B. 632 – Clodfelter; H.B. 922 – Luebke)
 - b. Workers' compensation/trucking companies (H.B. 1370 – Saunders; S.B. 1081 – Jenkins)
 - c. High-risk health insurance pools (H.B. 1494 – Insko, Bowie, Justus, Allred; H.B. 1367 – Insko)
 - d. Health insurance mandates (H.B. 1476 – Owens, Bowie, Justus, Blackwood)
 - e. Reduce workers' compensation premiums (H.B. 1626 – Goodwin)
- (5) Criminal Law Issues:
 - a. Review of sentencing guidelines
 - b. Judicial approval for pleas in certain cases (Clodfelter)
 - c. Reclassify statutory rape (H.B. 243 – Haire)
 - d. Amend habitual felon law (H.B. 242 – Haire)
 - e. Restructure prior criminal record points (H.B. 247 – Haire)
 - f. Sentence lengths (H.B. 264 – Haire)
 - g. Adjust penalties for B1 to E offenses (H.B. 246 – Haire)
 - h. Arson offenses (H.B. 244 – Haire)
 - i. Drug trafficking laws (H.B. 241 – Haire)
 - j. Giving notice of rights to contest mechanic's lien storage charges of vehicles seized under the DWI forfeiture laws (Lewis)
 - k. Youthful offenders (H.B. 1406 – Bordsen, Crawford)
 - l. Street gang terrorism prevention (H.B. 732 – Michaux)
- (6) State/Local Government Employee Issues:
 - a. Pay equity (S.B. 747 – Lucas; H.B. 544 – Alexander, Clary, Weiss, Insko)
 - b. Job sharing (H.J.R. 958 – Glazier)
 - c. Reemployment of retirees (S.B. 10 – Garwood; H.B. 219 – Glazier; Rapp, Goodwin, McLawhorn)

- d. Postretirement earnings (S.B. 1313 – Dorsett; H.B. 1658 – Jeffus; H.B. 1505 – Rapp, Bell, McLawhorn)
- e. State government employment (H.B. 861 – Earle, Wainwright)
- f. Optional graduated 25-year retirement plan for local governments (H.B. 1276 – Goodwin; Rapp, McLawhorn)
- (7) Labor, Employment, and Economic Development Issues:
 - a. Loss of manufacturing businesses (Culpepper)
 - b. Film industry incentives (H.B. 1802 – McComas, Harrell)
 - c. Credit for hiring apprentices (H.B. 1437 – Goodwin)
 - d. Labor audit systems/incentives (H.B. 1599 – Goodwin)
 - e. Non-English speaking worker safety (H.B. 1627 – Goodwin)
- (8) Health and Human Services Issues:
 - a. Dix Hospital property (H.B. 960 – Ross, Weiss, Munford, Stam; S.B. 413 – Reeves)
 - b. Care and safety of residents of residential care facilities (H.B. 1431 – Farmer-Butterfield, Insko)
 - c. Promoting patient safety in the provision of health care (H.B. 1765 – L. Allen, England)
 - d. Provision of emergency medical services in rural counties and their funding mechanisms (Wright)
- (9) Other:
 - a. Immigration (S.J.R. 553 – Albertson)
 - b. Casino nights for nonprofit organizations (H.B. 149 – Owens)
 - c. Soil and water conservation issues (Brubaker)
 - d. Trafficking of persons (S.J.R. 1197 – Kinnaird; H.J.R. 1086 – Alexander; H.J.R. 1576 – Justice, Womble)
 - e. Regulation of sellers of timeshares (Rand)
 - f. Attorney solicitation regulation (S.B. 1317 – Rand)
 - g. Compensation for eugenic sterilization (H.B. 1236 – Womble, Parmon, Insko, Ross)
 - h. Authority and responsibility of homeowners associations (Earle)
 - i. Charitable bingo/beach bingo (H.B. 1598 – Culpepper; H.B. 1637 – Gorman)
 - j. Agribusiness and agriculture teaching fellows (H.B. 1762 – Goodwin)
 - k. Meeting IRS request for a defined retirement age (Rapp, Goodwin, McLawhorn)

SECTION 2.1.(a) Size/Scope of Boards and Commissions (S.J.R. 924 – Rand; H.J.R. 1067 – Dockham, Owens) – The Commission may study boards and commissions. If this study is undertaken, the Commission shall establish a schedule for reviewing boards and commissions so that approximately twenty-five percent (25%) of the total number of State boards and commissions are reviewed each year for the next four years. In reviewing boards and commissions, the Commission shall consider the following:

- (1) The consolidation of boards and commissions, where appropriate.
- (2) Reducing the number of members serving on boards and commissions.
- (3) Reducing the number of meetings of boards and commissions.
- (4) The scope and authority of boards and commissions.

(5) The elimination of boards and commissions, where appropriate.

SECTION 2.1.(b) Availability of Health Insurance for Small Businesses and Trade Associations (S.B. 758 – Rand, Clodfelter, Soles) – The Commission may study the availability of health insurance for small employers. The Commission shall examine the Small Employer Group Health Insurance Reform Act to determine whether its provisions should be revised to increase the availability of health insurance offered to small employers in North Carolina. The Commission shall also examine whether North Carolina laws conflict with federal law regarding the ability of a trade association to obtain health insurance through a commercial carrier.

SECTION 2.1.(c) Availability of Health Insurance for Uninsurable Individuals (Rand) – The Commission may study ways to make insurance available to individuals who have difficulty obtaining health insurance coverage. In conducting the study, the Commission shall consider methods employed by other states to meet this need, and possible administrative structures, funding mechanisms, and coverages.

SECTION 2.1.(d) Pawnbrokers (Glazier, Dickson) – The Commission may study the laws regulating pawnbrokers and those nonregulated retail outlets engaging in similar business and acting as pawnbrokers. If undertaken by the Commission, the study shall include an examination of the advisability, viability, and cost of all of the following modifications to existing law with the goal of more efficiently monitoring pawnshop businesses that are engaging in similar business and to more effectively aid in the speedy recovery of stolen property:

- (1) Picture identification of sellers or pledgers.
- (2) Thumbprints on each pawn or sales receipt.
- (3) Machine-printed or otherwise legible pawn and sales receipts.
- (4) Requirements for time and date on pawn or sales receipts.
- (5) Recordation of any visible owner-applied numbers or markings on property.
- (6) Prohibition on receipt and sale of new property.
- (7) Authorization of fees to support local pawnbroker-related law enforcement.
- (8) Computerization of pawnshop records.
- (9) Requirement that pawnbroker records be made available to law enforcement.

SECTION 2.1.(e) Medicaid Funding (H.B. 540 – Daughtridg, Carney; H.B. 1467 – Nye; Hunter) – The Commission may study the feasibility of eliminating county financial participation in the Medicaid program. In conducting the study, the Commission may consider alternative funding methods to ensure that the short- and long-term impact on State funds of eliminating county financial participation in Medicaid is revenue neutral when calculated on a statewide basis. The Commission may also consider retaining the county contribution to administrative costs of the Medicaid program. In making its recommendations to the General Assembly, the Commission shall include a fiscal analysis of the impact on State revenue and Medicaid expenses estimated to result from eliminating county participation in the Medicaid program.

SECTION 2.1.(f) Study VoCATS – The Commission may study the VoCATS program, which is the accountability system for vocational education courses. If it undertakes this study, the Commission shall consider the following:

- (1) Whether the State-developed tests are the appropriate means to measure student mastery of the knowledge and skills taught in

vocational education courses, with specific focus on the agriculture curriculum.

- (2) The system for development of appropriate tests and methods of measuring student achievement and program performance in vocational and technical education.
- (3) The public school system of measuring student performance in the vocational and technical area as compared to the community college system of measuring student performance in the vocational and technical area.
- (4) Alternatives to the current tests, methods, and techniques provided through VoCATS.

SECTION 2.1.(g) Availability and Delivery of Government Services to Hispanics (Reeves, Malone; Barnhart, McComas) – The Commission may study the current State and local policies regarding the availability and delivery of government services to the State's increasing Hispanic population, the issues confronted by governmental agencies in effectively delivering those services, and the issues confronted by members of the Hispanic community in obtaining those services. If it undertakes this study, the Commission shall focus particularly on services in the areas of education, health, and public safety. As part of its study, the Commission may consider how all of the following complicate the delivery and receipt of government services within the State's Hispanic community:

- (1) Cultural differences.
- (2) Language barriers.
- (3) Difficulties encountered by members of the Hispanic community in obtaining the personal identification documents that are often required to obtain government services.
- (4) Difficulties encountered by members of the Hispanic community in obtaining drivers licenses, occupational licenses, professional licenses, and other types of licenses required to qualify for governmental services or to do business in the State.
- (5) Federal immigration laws, the failure to comply with those laws, and how the fear of discovery of noncompliance with federal immigration laws affects the delivery and receipt of services, and in some instances even the willingness to apply for those services.
- (6) The increasing economic, personnel, and time demands placed on State and local government agencies in responding to the growing needs for governmental services.
- (7) Any other issue relevant to this study.

If it undertakes this study, the Commission shall also identify those issues that are best addressed at the local level, those that are best addressed at the State level, and those best addressed at the federal level.

SECTION 2.1.(h) Office of State Energy (Daughtridge) – The Commission may study the functions, duties, and responsibilities of the Office of State Energy and may make a determination of whether those functions, duties, and responsibilities support the legislative purpose for the Office or whether the purpose should be modified.

SECTION 2.1.(i) Comprehensive Statewide Emergency Communications Planning (Clodfelter; Culpepper) – The Commission may study and recommend legislation, funding needs, interoperability, and policy to:

- (1) Enact a comprehensive first and second responder statewide communications goals list and plan that includes, at a minimum, law enforcement, fire, medical, utilities, and emergency management agencies.
- (2) Coordinate and assist grant applications from State and local organizations for federal communications funding.

SECTION 2.1.(j) Naturopathy (S.B.1268 – Kinnaird; H.B. 1142 and H.B. 1702 – Hill) – The Commission may study the practice of naturopathy in North Carolina and make recommendations as to whether it would be in the public interest for practitioners to be licensed or otherwise appropriately regulated.

In conducting the study, the Commission may consider the following:

- (1) The definition and components of naturopathy and naturopathic therapies.
- (2) The health, cultural, and social significance of naturopathy in North Carolina and nationally.
- (3) The distinctions and similarities between naturopathic therapies and conventional medical treatments.
- (4) The education and training of practitioners and the quality of that education and training, the extent to which the practice of naturopathy requires specialized skills or training, and the standards for determining the level of education and qualifications that should be required for licensure.
- (5) The extent to which there is, and can be, integration and coordination of natural therapies and conventional medical treatments.
- (6) The regulation and enforcement related to naturopathy in North Carolina and nationally, the need for regulation, and the extent and impact of previous regulatory efforts.
- (7) Whether, without licensure, the general public possesses the ability to determine whether a practitioner is competent.
- (8) Whether substantial harm to the public health, safety, and welfare exists if the practice of naturopathy is unregulated.
- (9) The appropriate structure, composition, and responsibilities of a regulatory board pertaining to the practice of naturopathy, the extent to which the responsibilities of a board can be fulfilled, and whether board operations can reasonably be financed through licensing fees.
- (10) The extent to which naturopathy is regulated in other states, and the impact of that regulation.
- (11) The scope of practice applicable to practitioners of naturopathy.
- (12) Whether practitioners of naturopathy in North Carolina have, or propose to have, a code of ethics, a voluntary certification program, or other measures to ensure minimum quality of service.
- (13) The kinds of regulatory provisions that exist in other states.
- (14) How the practice of naturopathy will be regulated, including the qualifications and disciplinary proceedings to be applied to practitioners.
- (15) How the public will benefit from licensure or other regulation.
- (16) The fiscal impact of licensure or other regulation upon the State.
- (17) Any other information the Commission considers relevant.

SECTION 2.1.(k) Equity-Building Homes (S.B. 894 – Queen) – The Commission may study methods to substantially increase the number of North Carolinians who own equity-building homes. As part of the study, the Commission may:

- (1) Determine the extent to which the public is knowledgeable about housing products that are likely to build equity over time.
- (2) Identify State, federal, and local barriers to constructing equity-building homes in both high-demand locations and rural areas.
- (3) Investigate the adequacy and funding of programs and counseling services that are available to educate consumers about home financing products, credit remediation, home maintenance, and foreclosure prevention strategies.

As used in this section, the term "equity-building home" means a residential structure that will be the purchaser's primary residence and that meets the State and local building code standards in place at the time of construction, or if there were no building codes in effect at the time of construction, that was constructed on-site. An equity-building home will also have characteristics that are likely to cause it to appreciate in value over time.

SECTION 2.1.(l) Funding/Budgeting of Occupational Licensing Boards (Hagan) – The Commission may study the funding mechanisms of all of the occupational licensing boards and commissions in the State and shall consider options for funding and budgeting those boards and commissions more effectively and efficiently, including funding and budgeting those boards and commissions through the General Fund.

SECTION 2.1.(m) State-Local Relationships (S.B. 1336 – Hoyle, Foxx) – The Commission may study the relationship between the State and local governments with respect to the provision of services. The study shall address the following issues:

- (1) Mandates that the State has placed on local governments regarding the provision of services to State residents. This study shall include a review of which mandates are a result of State law, which mandates are a result of federal law, and which mandates are a result of a combination of State and federal law.
- (2) Funding sources for local governments. The study shall include a review of all appropriations made from the State to local governments, all revenues shared between the State and local governments, and all methods of raising revenue allowed by the State to local governments.
- (3) A comparison of the State-local relationship in North Carolina with the state-local relationships in other states. In particular, the study shall compare the percentage of the costs of services borne by the State in comparison to the percentage of similar cost borne by other states.
- (4) A comparison of local governments with regard to the burden on local budgets of mandated programs. This study shall look at the property tax rates in different jurisdictions and the percentage of local budgets that support various programs.
- (5) A comparison of the combined State-local tax burden on individuals and businesses in comparison with those in other states.

In considering appointees to the committee to study this matter, the appointing authorities shall consider inclusion of local government representatives.

SECTION 2.1.(n) Abandoned Junk Vehicles (Culpepper, Justus) – The Commission may study issues relating to the environmental, aesthetic, and other public benefits derived from the abatement and recycling of junked and abandoned automobiles. If it undertakes this study, the Commission shall consider:

- (1) Whether the abatement program can best be undertaken on a county-by-county basis or a central statewide basis.
- (2) The funding method for the abatement program.
- (3) The process whereby junked vehicles might be delivered to scrap processors as expeditiously as possible.
- (4) The merits of use of a tax credit so as to encourage the expedited collection and recycling of used and junked automobiles.
- (5) Determination of the costs to the State and to local governments associated with abandoned and junked automobiles and landfilling of those automobiles.
- (6) Any other related issues.

SECTION 2.1.(o) Single Administrator for State 401(k) and 457 Plans – The Commission may study the Supplemental Retirement Income Plan of North Carolina and the North Carolina Public Employee Deferred Compensation Plan to determine whether these plans should be administered by a single administrator.

SECTION 2.1.(p) School Calendar/Later First Instructional Day/Workdays – The Commission may study whether the first instructional day of the school year should be later than the current practice. The Commission may also study the number of teacher workdays. If the Commission undertakes this study, the Speaker of the House of Representatives shall appoint six members of the House of Representatives, and the President Pro Tempore of the Senate shall appoint six members of the Senate to conduct the study, with one chair designated from among the appointees of each appointing officer. In the course of the study, the Commission shall consult with representatives of North Carolina's public schools, including the North Carolina School Boards Association, North Carolina Association of Educators, North Carolina Association of School Administrators, and parent organizations, as well as representatives of the tourism and hospitality industries. The Commission shall consider the following:

- (1) The economic impact of setting the first instructional day of the school year later than the current practice.
- (2) The impact on elementary school students.
- (3) The impact of the school calendar on the quality of education.
- (4) The performance of students on block schedules as compared to students on traditional schedules.
- (5) The performance of students who take examinations before Christmas as compared to those who take exams after Christmas.
- (6) The impact on the schedule for high school and middle school athletic events.
- (7) The impact on school personnel, particularly those who must coordinate their schedules with institutions of higher education to maintain their certification.
- (8) The school calendars of other states.
- (9) The impact of weather on lost school days.
- (10) The impact of an early August school start on family economics and culture.

(11) The impact on teacher workdays.

The Commission may also study the value of the teacher workdays now included in the school calendar and whether North Carolina students could benefit by converting a number of those workdays to additional days of instruction.

SECTION 2.2. For each Legislative Research Commission committee created during the 2003-2005 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

SECTION 2.3. For each of the topics the Legislative Research Commission decides to study under this part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 2.4. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

PART III. JOINT LEGISLATIVE GROWTH STRATEGIES OVERSIGHT COMMITTEE

SECTION 3.1. The Joint Legislative Growth Strategies Oversight Committee may study the issues of:

- (1) Delegating authority to cities and counties (S.B. 160 – Clodfelter).
- (2) Modernizing city and county planning (S.B. 914 – Clodfelter).
- (3) Transferable development rights.

SECTION 3.2. Section 3.3 of S.L. 2001-491 reads as rewritten:

"**SECTION 3.3.** This Part becomes effective January 15, 2002, and expires January 16, ~~2005-2007~~. Prior to its expiration on January 16, ~~2005-2007~~, the Committee shall report to the General Assembly on its activities conducted pursuant to this Part."

PART IV. STUDY COMMISSION ON RESIDENTIAL AND URBAN DEVELOPMENT ENCROACHMENT ON MILITARY BASES AND TRAINING AREAS (Rand)

SECTION 4.1. There is created the Study Commission on Residential and Urban Development Encroachment on Military Bases and Training Areas. The Commission shall consist of 17 members as follows:

- (1) Two county commissioners appointed by the President Pro Tempore of the Senate.
- (2) Two county commissioners appointed by the Speaker of the House of Representatives.
- (3) The commanding generals of Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, Camp Lejeune, and Cherry Point Air Station, or the general's designee.
- (4) Three Senators appointed by the President Pro Tempore of the Senate.
- (5) Three Representatives appointed by the Speaker of the House of Representatives.
- (6) One elected or appointed municipal official appointed by the President Pro Tempore of the Senate.
- (7) One elected or appointed municipal official appointed by the Speaker of the House of Representatives.

The Speaker of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 4.2. The Commission shall study the following concerning residential and urban development encroachment on military bases and training areas:

- (1) Restricting the zoning in the areas around military bases and training areas.
- (2) How encroachment affects deed registration.
- (3) Protecting the areas around military bases and training areas by purchasing development rights and buffers using all available State trust funds and other available funding mechanisms.
- (4) Any other issue the Commission considers relevant.

SECTION 4.3. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. 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 Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 4.4. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 4.5. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART V. LEGISLATIVE STUDY COMMISSION ON STATE PERSONNEL STATUTES (S.B. 1378 – Reeves; H.B. 1651 – Gibson)

SECTION 5.1. The General Assembly may study issues related to the State Personnel Act. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall designate an appropriate committee to conduct the study. The Committee may make an interim report to the 2005 General Assembly and shall make its final report to the 2006 Regular Session of the 2005 General Assembly.

PART VI. ELECTRONIC RECORDATION AND REVISION OF NOTARY LAWS (S.B. 1094 – Berger)

SECTION 6.1. The General Statutes Commission shall study the issue of electronic recordation, specifically with regard to real property documents and other documents filed with registers of deeds. The Commission shall study methods for

establishing uniform legal standards for the receipt, recordation, authentication, preservation, and retrieval of electronic documents. The Commission shall include in its study consideration of the Uniform Real Property Electronic Recordation Act drafted by the National Conference of Commissioners on Uniform State Laws as well as other resources on electronic recording standards from national organizations such as the Property Records Industry Association (PRIA) and the Mortgage Industry Standards Maintenance Organization (MISMO). The General Statutes Commission shall report its findings and recommendations and any legislative proposals to the 2005 General Assembly upon its convening.

SECTION 6.2. The Secretary of State shall study the issue of amending the notary public laws in order to modernize and simplify their administration. The study shall also address the issue of electronic notarization. The Secretary of State shall report its findings and recommendations and any legislative proposals to the 2005 General Assembly upon its convening.

PART VII. UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT

SECTION 7.1. The General Statutes Commission is directed to study the Uniform Unincorporated Nonprofit Association Act in consultation with interested parties and to report to the 2005 General Assembly on the Commission's recommendations and legislative proposals.

PART VIII. INNOVATIVE PEAT-BASED WASTEWATER SYSTEMS STUDY (Baker)

SECTION 8.1. The Commission for Health Services shall evaluate the desirability and feasibility of developing and implementing a pilot program whereby any individual seeking to use an innovative wastewater system, under G.S. 130A-343(g), that employs peat-based technology, at the individual's residence shall be required to use a wastewater system that satisfies all of the following:

- (1) The peat-based wastewater system complies with Standard 40, a standard developed by the National Sanitation Foundation, Inc. (NSF), an independent testing and research organization.
- (2) The peat-based wastewater system has a mandatory maintenance agreement developed by the manufacturer of the system that is part of the purchase contract for the system.

SECTION 8.2. As part of the evaluation required by Section 8.1 of this act, the Commission shall identify two or more counties that would participate in the pilot program.

SECTION 8.3. The Commission for Health Services shall report the results of its evaluation to the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on or before January 15, 2005.

PART IX. JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE

SECTION 9.1. The Joint Legislative Utility Review Committee may study the economic, environmental, and social issues associated with the development and use

of renewable and alternative energy in the State including, but not limited to, the following:

- (1) The environmental benefits of renewable and alternative energy development, including the reduction of: emissions such as sulfur dioxides, nitrogen oxides, and mercury and greenhouse gases; waste ash in landfills; and water and air quality degradation associated with the extraction and transport of fossil fuels.
- (2) The environmental benefits of conserving rural lands for traditional uses.
- (3) The environmental challenges to renewable and alternative energy development in the State, including existing laws, aesthetic issues, the impact on birds and the ecology, and secondary development associated with alternate energy development.
- (4) The potential for renewable and alternative energy to support rural economic development by broadening the tax base and creating new jobs.
- (5) Initiatives taken in other states to address renewable and alternative energy development.
- (6) Options for permitting renewable and alternative energy in the State, including suggestions for public involvement and environmental review.
- (7) Opportunities for renewable and alternative energy pilot projects in the State.

In conducting the study, the Committee may solicit input from renewable and alternative energy industry representatives, utility representatives, the State Energy Office, conservationists, environmentalists, leaders in rural economic development, tourism industry representatives, academics, local elected officials, and legislators from the eastern and western regions of the State.

PART X. NORTH CAROLINA BUILDING CODE COUNCIL STUDY (Culpepper; Queen)

SECTION 10.1. The General Assembly finds that the affordability of housing is an important issue and that the State should endeavor to ensure that State regulation does not unnecessarily increase the cost of housing. To that end, the North Carolina Building Code Council shall study the Residential Building Code to determine which provisions, if any, are unnecessary, outdated, overly stringent, or otherwise unduly increase the cost of housing.

SECTION 10.2. The Building Code Council may submit a report of the findings of its study, including any recommendations for statutory changes, to the 2005 General Assembly upon its convening.

PART XI. LOCAL SCHOOL CONSTRUCTION FINANCING STUDY COMMISSION (S.B. 1372 – Clodfelter; H.B. 1778 – Yongue)

SECTION 11.1. Establishment of the Commission. – The Local School Construction Financing Study Commission is established.

SECTION 11.2. Membership. – The Commission shall be composed of 19 members, as follows:

- (1) One member appointed by the Governor, after consultation with the President Pro Tempore of the Senate and the Speaker of the House of Representatives, who shall serve as chair;
- (2) Eight members appointed by the President Pro Tempore of the Senate: two members of the Senate from urban areas, two members of the Senate from rural areas, one member representing a large, fast-growing, urban school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member from the financial services industry, one county commissioner, and one educator;
- (3) Eight members appointed by the Speaker of the House of Representatives: two members of the House of Representatives from urban areas, two members of the House of Representatives from rural areas, one member representing a rural school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member who is knowledgeable about municipal and school finance, one school board member, and one educator;
- (4) The State Treasurer or the Treasurer's designee; and
- (5) The State Superintendent of Public Instruction or the Superintendent's designee.

Vacancies shall be filled by the appointing authority.

SECTION 11.3. Duties of the Commission. – The Commission shall examine the present system of local financing for school facilities and shall study alternative options for financing local school construction, renovation, repair, and maintenance. The Commission may study and consider public-private partnerships for school construction and facility ownership, sale leaseback arrangements, private and commercial financing arrangements, design standards for school facilities that may facilitate alternative financing techniques, alternative local revenue sources for financing school facilities, the use of real estate investment trusts, State and local construction bond pools, and any other financing issues deemed pertinent by the Commission.

SECTION 11.4. 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 11.5. Consultants and Other Staff. – The Commission may hire consultants to provide research, staff support, and information about school financing in other states to the Commission, in accordance with G.S. 120-32.02. The Legislative Services Office, with the prior approval of the Legislative Services Commission, shall also assign professional and clerical staff to assist the Commission in its work.

SECTION 11.6. Cooperation by Government Agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance. All State departments and agencies, local governments, and their subdivisions shall cooperate with the Commission and, upon request, shall furnish the Commission and its staff any information in their possession or available to them.

SECTION 11.7. Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly.

SECTION 11.8. Meeting Location. – The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building

or the Legislative Office Building. The Commission may also meet at various locations around the State in order to promote greater public participation in its deliberations.

SECTION 11.9. Reports. – The Commission shall make an interim report to the 2005 General Assembly no later than January 31, 2005, and a final report to the 2006 Regular Session of the 2005 General Assembly no later than March 31, 2006. The final report shall contain recommendations for legislation to implement recommendations made by the Commission. The interim report may also contain recommendations for legislation. The Commission shall terminate on March 31, 2006.

SECTION 11.10. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XII. VOTER PAPER TRAIL STUDY (S.B. 1415 – Kinnaird, Lucas; H.B. 1748 – Insko, McGee)

SECTION 12.1. There is established the Electronic Voting Systems Study Commission. That Commission shall consist of nine members to be appointed as follows:

- (1) Four members shall be appointed by the President Pro Tempore of the Senate. One shall be a county commissioner. One shall be a county election director. One shall be a citizen of North Carolina who does not hold public office and who has been an active advocate on the issue of prohibiting direct record voting equipment without voter-verifiable paper records.
- (2) Four members shall be appointed by the Speaker of the House of Representatives. One shall be a member of the State Board of Elections. One shall be a county election board member. One shall be a person with expertise in computer security.
- (3) The Executive Director of the State Board of Elections.

SECTION 12.2. The Electronic Voting Systems Study Commission shall study the issue of whether direct record electronic (DRE) voting systems should be prohibited in North Carolina unless each unit of the system produces a voter-verifiable paper record that is suitable for a recount or a manual audit and that is equivalent or superior to the paper record produced by a paper ballot system.

In conducting the study, the Commission shall consider DRE voting systems, compliance with the Help America Vote Act of 2002 (HAVA) and with voting-systems standards to be adopted under HAVA, including providing sufficient opportunity for access and participation, and privacy and independence, to all voters regardless of disability. The Commission shall consider any other issue related to the use of electronic voting systems. The Commission shall make a final report to the 2005 General Assembly upon its convening. The report shall contain the Commission's findings and recommendations. The Commission shall terminate on the earlier of the filing of its final report or the convening of the 2005 General Assembly.

SECTION 12.3. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval by the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of

the House of Representatives and Senate Supervisor of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Commission, while in discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1, 138-5, or 138-6, as appropriate. Vacancies shall be filled by the appointing authority.

SECTION 12.4. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XIII. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE STUDIES

SECTION 13.1. The Joint Legislative Education Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 13.2. Teacher assistant salary schedule (Holliman; H.B. 800 – Warner, Pate) – The Committee may study establishing a salary schedule for teacher assistants.

SECTION 13.3. Rural schools (S.B. 703 – Swindell, Holloman) – The Committee may study the unique issues that concern the rural schools in this State.

SECTION 13.4. Physical restraints/seclusion in schools (S.B. 977 – Dorsett) – The Committee may study the use of physical restraints and seclusion in public schools.

SECTION 13.5. High school graduation rate incentives (S.B. 949 – Lucas; H.B. 1251 – Glazier) – The Committee may study whether bonuses should be paid to principals for increased graduation rates.

SECTION 13.6. At-risk students single funding stream (S.B. 954 – Lucas; H.B. 1250 – Glazier) – The Committee may study whether a single funding stream should be targeted to at-risk students.

SECTION 13.7. Close achievement gap (S.B. 599 – Lucas; H.B. 938 – Michaux) – The Committee may study the best practices and methodologies for closing the achievement gap among children of various demographic groups who are performing below grade level.

SECTION 13.8. E-textbooks for students (H.B. 940 – Miller) – The Committee may study issues related to the availability and use of electronic copies of textbooks for public school students.

SECTION 13.9. Attracting teachers to become coaches (Nesbitt; H.B. 1786 – Goodwin) – The Committee may study the need to attract teachers into assuming additional duties of coaching interscholastic athletic teams in middle and high schools. If it undertakes this study, the Committee shall consider the feasibility of establishing a coaching fellowship program to attract students preparing to enter teaching through higher education coursework into coaching.

SECTION 13.10. Kindergarten admission requirements (Pate) – The Committee may study the issue of modifying kindergarten admission requirements as it relates to student readiness to enter kindergarten.

SECTION 13.11. Update the job description for school counselors (H.B. 463 – Bell) – The Committee may study updating and clarifying the job description for public school guidance counselors.

SECTION 13.12. Testing reform (Lucas, Apodaca) – The Committee may study the State's testing program. If it undertakes this study, the Committee shall consider:

- (1) The number of tests currently mandated at the State level and the process and cost of developing, validating, and scoring them.
- (2) Whether the State should consider the use of nationally developed tests as a substitute to State developed tests. In particular, the Committee shall determine whether this use would: affect the ABCs Program; adequately measure student achievement and performance; provide more than minimum levels of achievement; provide a better comparison to student achievement and performance in other states; be practical for high school courses or higher level courses; reduce the need for field testing; and offer any cost savings to the State.
- (3) The number of grades in which State tests are given. The Committee shall determine the necessity for testing all grades in third through eighth grades, whether a reduction in the grades tested would affect the receipt of federal money, and the extent to which a reduction would impair the State's ability to identify schools under the ABCs Program.
- (4) The high school courses for which State tests are given and whether there is an appropriate distribution of tests across grades nine through 12 and that test an appropriate array of the minimum courses required for admission to the constituent institutions of The University of North Carolina. In addition, the Committee shall examine whether students who take higher level courses and students in 12th grade are held accountable for their academic growth and performance.
- (5) The advantages and disadvantages of using a composite of end-of-course tests or other tests such as the SAT, AP tests, or other nationally standardized tests in high school rather than developing a high school exit exam. If the Committee finds a high school exit exam is preferable, then it shall determine whether it must be administered to all students or limited to certain students, for example, those who do not take the SAT or a certain number of courses for which there are end-of-course tests.
- (6) The extent to which additional testing, including field testing, practice testing, and locally mandated testing, is occurring and whether this should be limited or prohibited.
- (7) Evaluate alternative schools to determine how educational achievement is being advanced in these alternative school programs and that placement in these programs is to improve student performance rather than improve the performance of the school in which the student originally was assigned.
- (8) The number of school days that are spent on testing.
- (9) Any other issue the Committee considers relevant.

SECTION 13.13. Total Teacher Program – The Committee may study the Total Teacher Program, which is an instructional program designed to be used with the North Carolina public school curriculum. In the course of the study, the Committee may consider the effectiveness of the Program, the experience of schools in other states in using the Program, the cost and potential cost savings due to the Program, and other matters related to the Program.

SECTION 13.14. School construction (Garrou) – The Committee may study issues relating to school construction and school capacity.

SECTION 13.15. Computer-based math and literacy programs for children under age six – The Committee may study ways to improve math and literacy skills in children age 18 months to six years of age through the use of innovative computer-based software.

SECTION 13.16. Appropriate education for students on long-term suspension – The Committee may study whether and to what extent North Carolina should mandate the following:

- (1) Local school administrative units in North Carolina shall provide or cause to be provided an appropriate education for all students recommended for a long-term suspension.
- (2) Each student recommended for long-term suspension shall receive a multidisciplinary assessment and evaluation to (i) ascertain his or her educational history, needs, and special learning problems and (ii) assess the risk the child poses to staff and other students. The assessment and evaluation shall include feedback and recommendations from local mental health and juvenile justice professionals.
- (3) An individualized education and service plan shall be developed for all students recommended for long-term suspension by a committee that includes education, mental health, and juvenile justice professionals, the child's parent or guardian, and any other person the committee considers appropriate. The chair of the Juvenile Crime Prevention Council or a designee shall serve as chair of this committee.
- (4) All efforts shall be made to reduce the risk the child poses to staff and other students and to allow the child to continue his or her education in his or her regular school without disruption. These efforts shall include the provision of related services and interventions from other agencies when considered necessary by the committee.
- (5) During the first 10 days of suspension, the local school administrative unit shall place the student recommended for suspension in a diagnostic setting for purposes of ensuring there is no disruption to the student's education and to complete the assessment process.
- (6) The local education agency shall contract with private or public agencies if an appropriate education cannot be provided within the school system. Funds appropriated to a local school administrative unit for the education of the child shall be used to pay for the program in which the child is placed.
- (7) The child's parent or guardian shall have the right to appeal the recommendation for the long-term suspension or any placement decision made by the local school administrative unit.

- (8) No child shall be rejected for education and services by a local school administrative unit unless a district court judge places the child in a juvenile justice program or facility. In that circumstance, the Department of Juvenile Justice and Delinquency Prevention is responsible for providing the child's education.

SECTION 13.17. School nutrition/physical activity – The Committee may study school nutrition and opportunities for physical activity to keep children healthy.

SECTION 13.18. Adequacy of Low-Wealth School Funds (H.B. 1706 – McLawhorn) – The Committee may study the issue of low-wealth school funding.

PART XIV. REVENUE LAWS STUDY COMMITTEE

SECTION 14.1. The Revenue Laws Study Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 14.2. Valuation of Lots in Subdivisions (S.B. 520 – Dalton; H.B. 528 – Moore, Clary, England) – The Committee may study the valuation of partially improved, undeveloped lots in subdivisions.

SECTION 14.3. Private Activity Bonds (Rand) – The Committee may study private activity bonds.

SECTION 14.4. Conform Bank Expense Deduction (H.B. 1290 – McComas; H.B. 827 – Weiss, Luebke, Insko, Glazier) – The Committee may study whether the State income tax on banks should be conformed to the federal income tax.

SECTION 14.5. Subsidiary Dividend Taxes (H.B. 1291 – McComas) – The Committee may study whether the expense attribution law as it applies to deductible dividends should be modified.

SECTION 14.6. Income Tax Derived From Manufacturing (H.B. 1268 – Blackwood) – The Committee may study whether income derived from manufacturing should be exempt from income taxation.

SECTION 14.7. Tax Foreclosures (H.B. 981 – A. Williams) – The Property Tax Subcommittee of the Revenue Laws Study Committee may study the issue of foreclosures on tax liens, including proposals for expediting the foreclosure action.

SECTION 14.8. Comparative Tax Burden (H.B. 1247 – McComas) – The Committee may study the comparative tax burden on residents of South Carolina and residents of North Carolina.

SECTION 14.9. Tax Incentives to Promote Preservation of Open Spaces (S.B. 950 – Lucas; H.B. 887 – G. Allen, Hackney) – The Committee may study whether tax incentives should be provided to promote the preservation of open spaces.

SECTION 14.10. Sales and Use Tax Exemption (Kerr; Pate) – The Committee may study the issue of allowing local school administrative units a sales and use tax exemption instead of a sales and use tax refund and methods to fund this change.

SECTION 14.11. Tax Preferences (H.B. 959 – Glazier) – The Committee may study whether tax expenditures should be reviewed at least once every 10 years.

SECTION 14.12. Reduce Utility Equipment Sales Tax (H.B. 759 – Goforth) – The Committee may study whether light construction equipment should be given preferential sales and use tax treatment.

SECTION 14.13. Business Taxation (S.B. 1330 – Clodfelter) – The Committee may study comprehensive reform and simplification of the existing State taxes on business entities, including corporations, limited liability companies, partnerships, business trusts, associations, and other entities engaged in business. The elements of the plan to be studied shall include the following:

- (1) Repealing the corporate income tax, Part 1 of Article 4 of Chapter 105 of the General Statutes.
- (2) Including all types of business entities under a revised form of the franchise tax, Article 3 of Chapter 105 of the General Statutes.
- (3) Limiting the annual filing fee for all business entities to the amount of the filing fee for corporations.
- (4) Revising the current franchise tax to include two components, an assessment based on asset values and an assessment based on gross income or receipts from business activities.
- (5) The revised franchise tax would be calculated and applied on a consolidated basis for members of a related or affiliated group of business entities, allocated and apportioned to this State using existing formulas for allocating and apportioning corporate income.
- (6) The tax rates to be applied to these components would be the rates that are determined to yield revenue equal to the current combined revenue from corporate income and franchise taxes.
- (7) The Department of Revenue would annually review the revenue generated by the new simplified tax to determine if rate adjustments are necessary to preserve the revenue-neutrality of the simplification.
- (8) Any other issues or elements the Study Committee considers appropriate.

SECTION 14.14. Travel and Tourism Capital Investment (H.B. 1316 – Earle, Miner, McComas) – The Commission shall study the establishment of a Travel and Tourism Capital Investment Program in the Department of Commerce.

SECTION 14.15. Small Business Health Insurance Credit (H.B. 1375 – Goforth; S.B. 1059 – Rand) – The Commission may study providing a tax credit for small businesses that provide employee health insurance.

SECTION 14.16. Tax Preferences to Support Military – The Commission may study allowing a full or partial motor fuel tax refund for motor fuel used on a military base and other preferences that would demonstrate this State's support for the military.

PART XV. JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE

SECTION 15.1. The Joint Legislative Health Care Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 15.2. Benefits for State Employee Dependents (Rand) – The Committee may study alternative benefit plans for dependents of State employees.

SECTION 15.3. Consolidation of State Health Care Services (Rand) – The Committee may study whether a State entity should be established to purchase health care services provided with State funds and to administer data consolidation and claims processing systems in order to enhance quality of care, promote cost containment, and

achieve administrative efficiency and effectiveness in the system of services provided by the State.

SECTION 15.4. State Cost of Prescription Drugs (H.B. 1234 – Insko, Glazier, Ross) – The Committee may study whether the State should establish a single State entity for negotiating the cost of prescription drugs paid for by the State.

SECTION 15.5. Miscellaneous Topics – The Committee may also study the following topics:

- (1) Nursing shortage (S.J.R. 142 – Forrester, Purcell; H.B. 329 – Setzer)
- (2) Medical errors (S.J.R. 634 – Forrester)
- (3) Environmental causes of cancer (S.J.R. 143 – Forrester, Purcell; H.B. 330 – Setzer)
- (4) Educating the public on ovarian cancer risks and prevention (S.J.R. 636 – Forrester)
- (5) Reducing prescription drug costs (H.B. 1234 – Insko, Glazier, Ross)
- (6) Bulk purchasing of pharmaceutical drugs (S.J.R. 968 – Kinnaird)
- (7) Internet sale of prescription drugs (Rand)
- (8) Pain management and palliative care (Luebke)

PART XVI. STUDY OF VARIOUS WAYS TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS IN STATE SPENDING (Rand)

SECTION 16.1. The University of North Carolina (through the Office of the President), the Judicial Branch (through the Administrative Office of the Courts), the Executive Branch (through the Department of Administration), the Legislative Branch (through the Legislative Services Office), the Community College System (through the President's Office), and the Department of Public Instruction shall jointly study various ways to promote government efficiency and savings on State spending, including the following proposals:

- (1) Consolidate Administrative Functions (S.B. 805, S.B. 808 – Rand; H.B. 1052 – Owens, Dockham)
- (2) Statewide Benefit Committee Established (H.B. 1068 – Dockham, Owens)
- (3) DMV-NCDL/Registration Extensions (S.B. 804 – Rand)
- (4) Combine State Safety Programs (S.B. 807 – Rand)
- (5) Increase Use of Public Defenders (S.B. 810 – Rand)
- (6) Controller's Fee – (S.B. 813 – Rand)
- (7) Deferred Retirement Option Program (S.B. 817 – Rand)

SECTION 16.2. The Department of Administration shall report the results of this study to the Legislative Research Commission by January 15, 2005.

PART XVII. JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDIES

SECTION 17.1. The Joint Legislative Transportation Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 17.2. I-95 Tolls (Rand) – The Committee may study the feasibility of establishing tolls on Interstate 95 from the South Carolina to Virginia borders.

SECTION 17.3. Alternative Fuels (Daughtridge) – The Committee may study the use, availability, benefits, and disadvantages of alternative fuels. The study may include consideration of the following issues:

- (1) The existence and availability of federal grants or other incentive programs for alternative fuels and alternative fuel vehicles and the impact of these programs on the need or desirability for a State program.
- (2) The impact of increased alternative fuel vehicle use on the collection of motor fuel taxes and highway use taxes and whether the taxation of alternative fuels or vehicles using nonliquid or hybrid fuels needs to be modified.

SECTION 17.4. Comprehensive Transportation Issues (S.B. 1015 – Berger) – The Committee may study all aspects of transportation, including planning and scheduling of projects, legislative and executive oversight, revenues, funding, and expenditures of the Highway Fund, the Highway Trust Fund, and Federal Aid programs for transportation. The study shall include an examination of all the following:

- (1) The effectiveness of legislative oversight of the Department of Transportation and all other transportation-related programs in North Carolina.
- (2) The gap between transportation funding structures and the actual transportation needs of the State.
- (3) Historical and projected application of funds within the several transportation funding sources.
- (4) Deficiencies in matching funding and expenditures between the several Funds.
- (5) Economic feasibility of alternate transportation modes, including cost/benefit comparisons of planning, construction, and operation of alternate transportation programs.
- (6) Alternative methods of funding, financing, and planning transportation construction, maintenance, and operations.
- (7) Delivery of construction and maintenance projects, including alternative management structures, outsourcing, and privatization.
- (8) Any other issue related to transportation, transportation funding, project planning, and management of transportation programs.

SECTION 17.5. Registration of all-terrain vehicles (H.B. 473 – Baker) – The Committee may study whether all-terrain vehicles should be registered and regulated.

SECTION 17.6. Clarify disclosure of motor vehicle total loss claims (H.B. 1152 – Cole) – The Committee may study whether any motor vehicle that is declared a total loss shall have the registration card and the back of the title marked total loss claim vehicle.

PART XVIII. STUDY FINANCING OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 18.1. The Department of Health and Human Services shall study the financing of mental health, developmental disabilities, and substance abuse services. The study shall include the following:

- (1) An examination of all sources of funds used in the delivery of mental health, developmental disabilities, and substance abuse services throughout the Department.
- (2) An examination of alternative financing mechanisms for funding mental health, developmental disabilities, and substance abuse services, including Medicaid.
- (3) Recommendations for feasible alternative financing mechanisms.

The Department shall report its findings and recommendations to the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, 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 no later than July 1, 2005.

PART XIX. ENVIRONMENTAL REVIEW COMMISSION STUDIES

SECTION 19.1. The Environmental Review Commission may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 19.2. Effectiveness of Environmental Programs – The Commission may study the overall effectiveness of the State's efforts to protect the environment and conserve the natural resources of North Carolina. This study should include a comprehensive evaluation of the implementation of existing legal mandates and of the organizational structure of the Department of Environment and Natural Resources. This study should also consider:

- (1) The adequacy of current funding levels, additional funding needs, and funding options, including increasing fees to cover the cost of permitting, inspections, and enforcement.
- (2) Options to improve efficiency and reduce costs, including the consolidation of permitting, inspection, and enforcement functions.
- (3) The adequacy of current staffing levels.
- (4) Options to improve coordination among programs.
- (5) The adequacy of current inspection and enforcement activities and options to improve compliance with environmental laws and rules, including improvements in the use of civil penalties.

SECTION 19.3. Plan to Share Floodplain Mapping Information (H.J.R. 1157 – Daughtridge) – The Commission may study whether the information compiled on a regular basis by the Statewide Floodplain Mapping Unit would be useful and relevant to dam operators, local agencies, and State agencies with regard to making decisions about coordinating and controlling water releases from dams, flood control, floodplain management, and emergency evacuation procedures. If it undertakes this study, the Commission may consider the type of information compiled by the Statewide Floodplain Mapping Unit and the value of that information in assisting with decisions regarding flood control techniques, floodplain management, and the time, frequency, and manner of water releases from dams. The Commission may also consider the feasibility of making that information readily available to dam operators, appropriate local agencies, and appropriate State agencies. The Commission may also consider whether it is appropriate to incorporate the information available from the Statewide Floodplain Mapping Unit into local emergency management plans and downstream

inundation maps. The Commission may also study any other issues relevant to this topic.

SECTION 19.4. Water Restriction Guidelines (Gibson) – The Commission may study water restriction guidelines created by the Department of Environment and Natural Resources and implemented by local governments. If it undertakes this study, the Commission shall consider the State's role and authority to regulate water usage during times of drought conditions and shall also consider:

- (1) The economic impact of water conservation measures.
- (2) The balance between protecting water supply and economic impact on local communities.
- (3) Recommendations on establishing consistency across the State with respect to classes of water use, specifically the use of the terms essential and nonessential use.

SECTION 19.5. Regional Water Supplies (S.B. 1409 – Shaw) – The Commission may study the issue of the development and funding of regional water supply systems.

SECTION 19.6. Clean Air Trust Fund – The Commission may study establishing a Clean Air Trust Fund.

SECTION 19.7. Fair Bargain Act (S.B. 878 – Horton) – The Commission may study revocation of contracts under certain circumstances.

SECTION 19.8. Deterrents to Stormwater Runoff (Horton) – The Commission may study the feasibility of encouraging permeable surfaces as a deterrent to stormwater runoff.

SECTION 19.9. Protecting Property Owners Adjacent to Activities for which a Stormwater Permit is Issued (S.B. 888 – Rucho) – The Commission may study ways to protect a property owner whose land is adjacent to or downstream from a site on which alterations of the existing flow of stormwater will occur.

SECTION 19.10. Highway Use Tax Based on Efficiency/Vehicle Registration Based on Vehicle Miles Traveled (S.B. 1374 – Clodfelter) – The Commission shall study both of the following:

- (1) Whether the State should modify the current highway use tax so that all or a portion of the highway use tax paid on a private passenger vehicle is based on the fuel efficiency rating of the vehicle.
- (2) Whether the State should modify the current vehicle registration fee so that all or a portion of the annual vehicle registration renewal fee for a passenger vehicle is based on the vehicle miles traveled by the vehicle.

In its conduct of these studies, the Commission shall consider whether the modifications studied under subsection (a) of this section should be made on a revenue-neutral basis or should be made so as to generate additional revenue to be used to fund initiatives designed to improve air quality and the efficiency of the transportation system in the State.

SECTION 19.11. Stormwater Issues. – The Commission may study various approaches to prevent and reduce stormwater pollution throughout the State, including but not limited to: low impact design as a stormwater management technique; financial and regulatory incentives for the use of innovative stormwater management techniques; technical assistance for local governments in implementing successful stormwater management programs or collaborative regional programs; State and local efforts to reduce sedimentation pollution; potential funding sources for improved

stormwater management; and protection of highly sensitive waters such as shellfishing and recreational waters and trout streams.

PART XX. HIGHWAY TRUST FUND STUDY COMMITTEE EXTENDED

SECTION 20.1. Section 29.12 of S.L. 2003-284 reads as rewritten:

"**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.~~ January 31, 2005. Regardless of whether it has filed an interim or final report, the Committee shall terminate on ~~November 1, 2004.~~ January 31, 2005."

PART XXI. DEPARTMENT OF ADMINISTRATION STUDY (Nesbitt)

SECTION 21.1. The Department of Administration may study retainage from payment on public construction projects. If it undertakes this study, the Department shall consider the following:

- (1) Retainage by public owners from payment to contractors and retainage by those contractors from payment to subcontractors.
- (2) Retainage from periodic progress payments and final payment, including a maximum allowable amount of retainage.
- (3) A time certain for the owner's release of retainage, based upon the owner's occupancy, substantial completion of the work, or the owner's use of the improvements for the purposes intended.
- (4) A time certain for the contractor's release of retainage to a subcontractor, based upon the contractor's receipt of retainage.
- (5) Conditions permitting withholding of retention beyond the date of release, including those stated in G.S. 143-134.1(d), and limits on the amount of retainage for a condition permitting withholding.
- (6) Interest on wrongfully withheld retainage and conditions for the payment of attorneys' fees for the collection of wrongfully withheld retainage.
- (7) Line-item release of retainage, based upon a schedule of values, for specific work that has been completed by the contractor and approved by the owner.
- (8) Any other matters relating to the withholding and release of retainage on public construction projects.

SECTION 21.2. The Department shall report the results of its study to the 2005 General Assembly upon its convening.

PART XXII. UNC BOARD OF GOVERNORS STUDY COMMISSION

SECTION 22.1. There is created the UNC Board of Governors Study Commission. The Commission shall consist of 10 members appointed as follows: five by the President Pro Tempore of the Senate and five by the Speakers of the House of Representatives. The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. Vacancies on the Commission shall be filled by the appointing authority.

The Commission shall meet upon the call of the chairs. A majority of the members of the Commission shall constitute a quorum.

SECTION 22.2. The Commission shall study the method of election or appointment of members of the Board of Governors, the length of members' terms, the number of terms a member may serve, and the size of the Board of Governors. As part of the study, the Commission may examine the governing boards of other states' institutions of higher education. The Commission shall report its findings and any recommendations to the 2005 Regular Session of the General Assembly.

SECTION 22.3. 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 22.4. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist in the work of the Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. All State departments and agencies and local governments and their subdivisions shall furnish the Commission with information in their possession or available to them. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this part.

SECTION 22.5. The Commission shall terminate upon the filing of its final report.

PART XXIII. NORTH CAROLINA STUDY COMMISSION ON AGING STUDIES

SECTION 23.1. The North Carolina Study Commission on Aging may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 23.2. Long-term care remediation (S.B. 206 – Swindell, Purcell) – The Commission may study the feasibility of implementing a remediation program for long-term care facilities in this State that is similar to the Collaborative Remediation Project in Michigan.

SECTION 23.3. Mentally ill long-term care residents (S.B. 1150 – Swindell; H.B. 1490 – Clary, Nye, Weiss) – The Commission may study issues related to mentally ill residents in long-term care facilities.

PART XXIV. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES STUDIES

SECTION 24.1. The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 24.2. Integration of care for children with multiple system service needs (S.B. 262 – Foxx, Allran, Dannelly, Lucas, Purcell; H.B. 169 – Insko) – The

Committee shall conduct a comprehensive review of the State's system of care for children with multiple system service needs. The purpose of the comprehensive review is to determine the extent to which children who need services from multiple State and local agencies in this system are or are not receiving those services in a timely manner, the effectiveness of the services provided, the potential long-term impact on the children, their families, and State and local resources of not providing all services in a timely and cost-effective manner, and to make detailed recommendations on the system changes necessary to address the problems identified as quickly as possible. Recommendations on system changes shall include programmatic and funding changes, and an analysis and estimate of implementation costs and projected cost-savings to the State in future years. In order to ensure a dedicated focus and appropriate expertise for the comprehensive review, the Committee shall convene a task force to conduct the review. The task force shall be comprised of the cochairs of the Oversight Committee, the Joint Legislative Education Oversight Committee, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Joint Legislative Health Care Oversight Committee, and other individuals appointed by the cochairs of the Oversight Committee upon recommendation of the other members of the task force.

In conducting its review, the task force shall consider thoroughly all of the following:

- (1) State-of-the-art approaches to services to children with multiple system service needs as the basis of reform in North Carolina.
- (2) Evidence-based best practices in North Carolina and elsewhere for potential systemwide adoption.
- (3) Barriers to access for developing a uniform access process to implement a "no wrong door" policy such that children and families may enter any service access point but will be afforded seamless access to all necessary services.
- (4) Initiatives taken or under consideration in other states to ensure a unified approach to system services, including the feasibility of establishing a funding consortium for pooling resources of all involved agencies in order to streamline access to the system by children and involvement in the system by service providers.
- (5) Ways to improve the multidisciplinary identification and evaluation of children's multiple service needs and the communication of those needs to all appropriate service providers.
- (6) The extent to which children currently in the juvenile justice system have not received adequate and appropriate educational, mental health, or other health services, and the reasons why the children have not been adequately served.
- (7) Information from the Department of Public Instruction and other organizations showing the number of children who have been suspended or expelled from public school, the reasons for the suspension or expulsion, the number of these children who have received alternative placements to ensure that they are being adequately and appropriately served by State and local service systems.
- (8) Necessary changes to North Carolina service systems involving mental health, developmental disabilities, and substance abuse services, social services, education services, juvenile justice, and other related service

systems that will enable these systems to work together to ensure effective and timely access to services for children and their families.

The Oversight Committee, subject to the provisions of G.S. 120-32.02, may hire a consultant to assist the task force in its comprehensive review. The Oversight Committee shall establish interim and final reporting time lines for the consultant's findings and recommendations, and, subject to the requirements of this section, for meetings and reports of the task force.

SECTION 24.3. Mental health in prisons (H.B. 1085 – Insko) – The Committee may study the incidence of mental illness and substance abuse problems among inmates in the North Carolina prison and juvenile justice systems.

PART XXV. JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE STUDY (H.B. 758 – Stiller)

SECTION 25.1. The Joint Legislative Commission on Seafood and Aquaculture may study whether it should be unlawful to take shrimp with trawl nets in certain inland waters. The Commission may report the results of its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

PART XXVI. ADMINISTRATIVE OFFICE OF THE COURTS/DEPARTMENT OF CORRECTION STUDY (H.B. 890 – Eddins, Holliman)

SECTION 26.1. The Administrative Office of the Courts and the Department of Correction shall jointly study the processes for the collection and payment of restitution in this State, and shall determine methods for reducing the number of restitution payments that go unclaimed. The Administrative Office of the Courts and the Department of Correction shall report their findings and recommendations to the 2005 General Assembly upon its convening.

PART XXVII. UNC BOARD OF GOVERNORS STUDY FEASIBILITY OF FORGIVENESS OF STUDENT DEBT PROGRAM

SECTION 27.1. The Board of Governors of The University of North Carolina, in conjunction with the North Carolina State Education Assistance Authority, may study the feasibility of a program that would forgive student indebtedness for teachers who have continuing certification in and are teaching in the disciplines of mathematics, science, or special education. The Board shall report the results of its study to the Joint Legislative Education Oversight Committee by January 15, 2005.

PART XXVIII. STATE BOARD TEACHER RETENTION TASK FORCE

SECTION 28.1. The State Board of Education shall form a Task Force cochaired by the State Board of Education Chairman or designee and the Lt. Governor or designee to study issues related to effective recruitment and retention of teachers for the North Carolina public schools. The Task Force shall include practicing public school teachers, principals, superintendents, local boards of education, and representatives from the University System, the Community College System, and others as deemed appropriate by the cochairs. In the course of this study, the State Board of Education shall consider:

- (1) Impediments to effective teacher recruitment and retention;
- (2) Strategies for increasing the effectiveness or recruitment and retention efforts;
 - a. Modifications to teacher salaries and benefits that will ensure that teacher compensation in North Carolina remains at or above the national average, thereby better enabling the public schools to recruit and retain highly qualified teachers. The State Board may consider:
 1. Increased salaries for beginning teachers to make the profession more attractive at the entry level;
 2. Increased salaries for teachers at those points at which higher numbers of teachers leave the teaching profession;
 3. Retirement options for teachers with 30 years of experience that will provide opportunities for those highly skilled and experienced teachers to continue in service;
 4. Differentiated salary opportunities for teachers who demonstrate exemplary teaching skills, work in certain areas of certification, work in hard-to-staff schools, or serve as mentors, school improvement team leaders, or serve as leaders in a Quality Teacher as Leader Program;
 5. Other modifications to teacher salaries and benefits necessary to recruit and retain highly qualified teachers in the public schools.
 - b. Tax incentives to encourage experienced teachers to remain in the teaching profession;
 - c. Locally designed initiatives to facilitate teacher recruitment and retention;
 - d. Strategies for increasing the number of highly qualified beginning teachers such as:
 1. Expanding teacher preparation programs;
 2. Expanding scholarship loan programs for prospective teachers to recruit the most qualified high school students to the teaching profession; and
 3. Ensuring that graduates of teacher preparation programs are well prepared to meet teacher-certification requirements.
 - e. Strategies for giving beginning teachers the opportunity to develop into skilled professionals such as assigning them to teach only in their area of certification and minimizing their noninstructional duties;
 - f. Strategies for ensuring that school-based administrators are adequately trained to provide support for both experienced and inexperienced teachers and that they provide that support;
 - g. Strategies for ensuring that teachers are treated respectfully by students, such as a Teachers' Bill of Rights;
 - h. Increased expectations regarding parental involvement in and support of their children's education;

- i. The availability of communications devices in the classroom;
- j. Strategies for a Quality Teacher as Leader Program as a career option that compensates teachers for accomplished teaching and values teachers as leaders; and
- k. Strategies for ensuring that schools are staffed appropriately and teachers have the time necessary to meet the State, federal and local demands for quality teaching and learning environments.

SECTION 28.2. The State Board of Education shall report its findings and recommendations to the Joint Legislative Education Oversight Committee prior to February 15, 2005. These recommendations may include changes to laws and policies.

SECTION 28.3. The Department of Public Instruction shall provide staff to support the work of the Task Force upon the request of the cochairs or staff and consultants may be hired from funds designated to support the work of the Task Force.

SECTION 28.4. The State Board of Education shall use federal funds to support the work of the Task Force.

PART XXIX. JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE STUDIES

SECTION 29.1. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 29.2. Deter juvenile escapes (H.B. 956 – Haire) – The Committee may study the issue of persons who escape from the custody of the Department of Juvenile Justice and Delinquency Prevention (Department) and develop appropriate sanctions for those persons. If it undertakes this study, the Committee shall consult with the Department, the Administrative Office of the Courts, and the North Carolina Sentencing and Policy Advisory Commission to develop a statutory scheme through which both juveniles and persons who are over the age of 16 years shall be punished for escaping from the custody of the Department.

SECTION 29.3. Federal Structured Sentencing System (Culpepper) – The Committee may study the State's current system of structured sentencing and compare that with the federal system of structured sentencing. In its study, the Committee shall consider all of the following:

- (1) A comparison of the role and responsibilities of the North Carolina Sentencing and Policy Advisory Commission with regard to structured sentencing with the role and responsibilities of the Commission's federal counterpart.
- (2) The effectiveness of both the State and federal systems in adjusting the sentencing grid and the factors considered in the sentencing process so that the sentencing range available to the court is appropriate for the crime committed and also allows appropriate flexibility for the court to consider the circumstances on a case-by-case standard.
- (3) The effect of the structured sentencing system at the State and federal levels on the number of prison beds required and whether regular periodic adjustments of the sentencing structure that take into account both the nature of the crimes most often committed, the effectiveness

of the punishments imposed, and the increase or decrease in prison populations provides a more equitable and economic criminal justice system.

- (4) Any other issue relevant to this study.

SECTION 29.4. Confinement of Incapacitated Inmates (S.B. 1014 – Berger)

– The Committee may study the confinement of inmates who are irreversibly, physically incapacitated due to chronic illness or disability. The Committee's study may include, but is not limited to, a review of current policies, a calculation of potential population figures and medical care costs, a determination of possible alternatives to incarceration and accompanying costs, and a consideration of procedures for termination or commutation of sentences.

SECTION 29.5. The Committee shall report its findings and recommendations, including any proposed legislation, no later than the convening of the 2005 General Assembly.

PART XXX. AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 30.1. The Agriculture and Forestry Awareness Study Commission may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 30.2. Agriculture Commodity Incentives (Albertson) – The Commission may study the possibility of establishing incentive programs to benefit firms purchasing additional large quantities of North Carolina farm commodity products when an overabundance of a specific commodity is designated by the State Department of Agriculture and Consumer Services to be available for sale.

SECTION 30.3. Food Safety and Security (S.B. 834 – Albertson) – The Commission may study ways to protect the State's food supply system and the agricultural industry base.

SECTION 30.4. Dairy Industry (Albertson, Rand; H.B. 1143 – Hill) – The Commission shall study the condition of the dairy industry in the State. As a part of its study, the Commission shall examine:

- (1) The short-term and long-term problems associated with maintaining a viable dairy industry and supplying the needed quantity of milk in the State.
- (2) Ways to sustain the existing dairy industry in the State.
- (3) Opportunities for expanding the dairy industry, including attracting both new dairy producers and new processors into the State.
- (4) The contribution of dairy farmers to the maintenance of prime agricultural lands, and working lands, and the quality of life in the State.
- (5) The need for programs that stabilize the pricing of milk at the farm level, such as counter-cyclical or safety net type programs in the Farm Security and Rural Investment Act of 2002, or a milk transportation grant program to maintain a local supply of fresh milk for processing and consumption, programs that facilitate the entry of young farmers into the dairy industry, and programs that preserve dairy green space along the urban fringe.
- (6) Other factors impacting the dairy industry in North Carolina.

PART XXXI. COMMITTEE ON EMPLOYEE HOSPITAL AND MEDICAL BENEFITS STUDY NEWBORN COVERAGE (S.B. 1421 – Kinnaird; H.B. 1787 – Insko)

SECTION 31.1. The Committee on Employee Hospital and Medical Benefits may study the following issues pertaining to benefits under the Teachers' and State Employees' Comprehensive Major Medical Plan ("Plan"):

- (1) Whether to repeal or otherwise modify G.S. 135-40.6(7) that limits coverage for examination and supervision of a normal newborn infant to only when the mother of the infant is receiving maternity benefits under the Plan.
- (2) Whether to adopt a federally qualified health reimbursement arrangement as an additional component of the Plan.
- (3) Whether deductibles and co-payment amounts applicable under the Plan should be based on income of the Plan member, with lower-income Plan members paying less than higher-income Plan members.

PART XXXII. HURRICANE EVACUATION STANDARDS STUDY COMMISSION

SECTION 32.1. The Hurricane Evacuation Standards Study Commission is established. The Commission shall consist of six members to be appointed as follows:

- (1) Three members of the House of Representatives to be appointed by the Speaker of the House of Representatives; and
- (2) Three members of the Senate to be appointed by the President Pro Tempore of the Senate.

SECTION 32.2. The Commission shall study the development and establishment of hurricane evacuation standards for the State. The Commission shall consider and recommend to the General Assembly those legislative actions necessary to implement its recommendations.

SECTION 32.3. The following State employees shall attend each meeting of the Commission and shall provide technical support and expertise to the Commission to develop appropriate State hurricane evacuation standards:

- (1) Director, Division of Emergency Management, Department of Crime Control and Public Safety.
- (2) Chief of Logistics, Division of Emergency Management, Department of Crime Control and Public Safety.
- (3) State Roadway Design Engineer, Department of Transportation.
- (4) Assistant State Roadway Design Engineer, Department of Transportation.
- (5) Division Engineer, Division 1, Department of Transportation.
- (6) Division Engineer, Division 2, Department of Transportation.
- (7) Division Engineer, Division 3, Department of Transportation.
- (8) Division Traffic Engineer, Division 1, Department of Transportation.
- (9) Division Traffic Engineer, Division 2, Department of Transportation.
- (10) Division Traffic Engineer, Division 3, Department of Transportation.

SECTION 32.4. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Supervisors of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The members of the Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1.

SECTION 32.5. The Commission shall report its findings and any recommendations to the Governor and the Joint Legislative Transportation Oversight Committee of the General Assembly by January 15, 2005. Upon the earlier of the filing of its final report or the convening of the 2005 General Assembly, the Commission shall terminate.

SECTION 32.6. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Hurricane Evacuation Standards Commission.

PART XXXIII. STREAM MAPPING (H.B. 1797 – Luebke)

SECTION 33.1. The Geographic Information Coordinating Council and the Department of Environment and Natural Resources shall develop and recommend a plan to improve the mapping and digital representation of surface waters in North Carolina, including intermittent and perennial streams, lakes, and ponds, to the General Assembly and the Environmental Review Commission on January 15, 2005.

SECTION 33.2. The plan shall include at a minimum: mapping specifications and standards; estimated budget and schedule for statewide implementation; and entry of the data into NC OneMap.

SECTION 33.3. The Geographic Information Coordinating Council and the Department shall include at a minimum the Division of Emergency Management in the Department of Crime Control and Public Safety, the Department of Commerce, the Department of Transportation, and the US Geological Survey in the development of the plan.

SECTION 33.4. The General Assembly encourages municipalities and counties to share the mapping and digital representation of surface waters that they have developed with the Geographic Information Coordinating Council, NC OneMap, and the public.

PART XXXIV. STUDY COMMISSION ON HEALTH CARE WORKFORCE DEVELOPMENT (H.B. 1498 – Tolson, Goforth, Allred, Bell)

SECTION 34.1. There is created the Health Care Workforce Study Commission ("Commission"). The Commission shall consist of 21 members appointed as follows:

- (1) Five members appointed by the Governor, to include:

- a. One person who is a health care provider or a pharmacist in a rural community.
 - b. One person who is a hospital administrator from recommendations provided by the North Carolina Hospital Association.
 - c. One person who is a dental care provider.
 - d. One person from the Office of Research, Demonstrations, and Rural Health Development of the Department of Health and Human Services.
 - e. The Program Director of the North Carolina AHEC Program.
- (2) Eight members appointed by the Speakers of the House of Representatives, to include:
- a. Four members of the House of Representatives.
 - b. One person who is a nursing home administrator from recommendations provided by the NC Health Care Facilities Association.
 - c. One person who is a community college president from recommendations provided by the President of the North Carolina Community College System.
 - d. One person who is a physician.
 - e. One person who is a home care administrator from recommendations provided by the Association of Home and Hospice Care of North Carolina.
- (3) Eight members appointed by the President Pro Tempore of the Senate, to include:
- a. Four members of the Senate.
 - b. One person who operates an adult care home from recommendations provided by the NC Association of Long Term Care Facilities.
 - c. One person who is a university president from recommendations provided by the President of The University of North Carolina System.
 - d. One person who is a health care provider with expertise in respiratory care.
 - e. One person who is a nurse from recommendations provided by the North Carolina Nurses Association.

SECTION 34.2. The purpose of the Commission is to determine methods to increase the number of people providing health and dental care in this State and to overcome existing barriers contributing to the health care provider shortages. In undertaking this study, the Commission shall consider the following:

- (1) How to cultivate an interest in health occupations programs at the secondary school level.
- (2) How to address the shortage of adequately prepared health care occupations faculty at community colleges, including designating health care occupation degrees as "high cost" programs and paying health care occupation faculty at a higher rate, designating a salary differential for faculty members who provide clinical or classroom training during evening, night, and weekend shifts, and offering other

incentives to encourage masters trained professionals to teach at community colleges.

- (3) How to address the attrition rates for students in health care occupation curriculums in community colleges.
- (4) Resources available to assist community colleges with the purchase of equipment necessary to train students for health care occupations.
- (5) Shortages of faculty at the university level.
- (6) Restoring funding for university level Fast Track programs.
- (7) Whether a curriculum program that offers a baccalaureate degree in respiratory therapy should be established in The University of North Carolina System.
- (8) How to improve current programs responsible for addressing dentist and physician shortages, particularly in the rural parts of the State.
- (9) How to address nursing shortages, taking into consideration the Institute of Medicine's Nursing Task Force recommendations.
- (10) How to address shortages of pharmacists and other allied health care providers.
- (11) Completion of the articulation plan between the North Carolina Community College System and The University of North Carolina System's health care training programs.
- (12) Any other issue the Commission considers relevant.

SECTION 34.3. The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Supervisors of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Commission, while in discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1, 138-5, or 138-6, as appropriate. Vacancies shall be filled by the appointing authority.

SECTION 34.4. The Commission shall submit an interim report to the 2005 Regular Session of the 2005 General Assembly that contains its recommendations, legislative proposals, and cost analyses. The Commission shall make a final report to the 2006 Regular Session of the 2005 General Assembly and shall terminate upon the earlier of the filing of its final report or April 30, 2006.

SECTION 34.5. From the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established in this act.

PART XXXV. SMART START FUNDING STUDY (Hagan)

SECTION 35.1. Commission Established. – There is established a Smart Start Funding Study Commission.

SECTION 35.2. Membership. – The Commission shall be composed of 21 members as follows:

- (1) Four members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (3) North Carolina Partnership for Children board member appointed by the Speaker of the House of Representatives.
- (4) President of the North Carolina Partnership for Children.
- (5) Secretary of the Department of Health and Human Services or designee.
- (6) North Carolina Budget and Tax Center representative appointed by the President Pro Tempore of the Senate.
- (7) State Budget Director or designee.
- (8) Department of Social Services County Director appointed by the Speaker of the House of Representatives.
- (9) Department of Public Health County Director appointed by the President Pro Tempore of the Senate.
- (10) County Commissioner appointed by the Speaker of the House of Representatives.
- (11) Local Partnership for Children Executive Director appointed by the President Pro Tempore of the Senate.
- (12) Local Partnership for Children board chair appointed by the Speaker of the House of Representatives.
- (13) Two business leaders representing small and corporate business, one appointed by the President Pro Tempore of the Senate and one by the Speaker of the House of Representatives.
- (14) Representative of the Rural Economic Development Center appointed by the President Pro Tempore of the Senate.

SECTION 35.3. Secretary of Health and Human Services. – The Commission shall invite the Secretary of Health and Human Services to attend each meeting of the Commission and encourage the Secretary's participation in the Commission's deliberations.

SECTION 35.4. Duties of Commission. – The Commission shall study the funding of the North Carolina Partnership for Children, Inc. In conducting the study, the Commission shall consider the following:

- (1) The current funding system of the North Carolina Partnership for Children, Inc.
- (2) Any strategies for achieving full funding and full service for North Carolina's young children and families.
- (3) Funding equity among all counties and local partnerships.
- (4) Any other information the Commission deems relevant.

SECTION 35.5. Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 35.6. Cochairs. – Cochairs of the Commission shall be designated by the President Pro Tempore of the Senate and the Speaker of the House of

Representatives from among their respective appointees. The Commission shall meet upon the call of the chairs.

SECTION 35.7. 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 35.8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Commission to aid its work.

SECTION 35.9. 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 35.10. Meetings During Legislative Session. – 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 35.11. Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building.

SECTION 35.12. Report. – The Commission shall make its findings and recommendations in a final report to the 2005 General Assembly. Upon the earlier of the filing of its final report or the convening of the 2005 General Assembly, the Commission shall terminate.

SECTION 35.13. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this section.

PART XLI. WILMINGTON RACE RIOT COMMISSION (Wright)

SECTION 41.1. Section 17.1(c) of S.L. 2000-138, as amended by Section 3.1 of S.L. 2002-180, reads as rewritten:

"**Section 17.1.(c)** The Commission shall consist of 13 members, each of whom shall serve a ~~four-year~~ five-year term. Commission members shall be appointed on or before September 1, 2000, as follows:

- (1) The President Pro Tempore of the Senate shall appoint three members.
- (2) The Speaker of the House of Representatives shall appoint three members.
- (3) The Governor shall appoint three public members, one of whom shall be a historian.
- (4) The Mayor and City Council of the City of Wilmington shall appoint two members.
- (5) The New Hanover County Commissioners shall appoint two members.

The Commission shall terminate on December 31, ~~2004~~, 2005."

SECTION 41.2. Section 17.1(e) of S.L. 2000-138, as amended by S.L. 2002-180, reads as rewritten:

"**Section 17.1.(e)** The Commission may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. Members serve at the pleasure of the

appointing authority. A member subject to disciplinary proceedings shall be disqualified from participating in the official business of the Commission until the charges have been resolved."

SECTION 41.3. Section 17.1(f) of S.L. 2000-138, as amended by S.L. 2002-180, reads as rewritten:

"**Section 17.1(f)** Members of the Commission ~~shall not~~may receive per diem or reimbursement for travel or subsistence. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the per diem of the Commission."

SECTION 41.4. Section 17.1(g) of S.L. 2000-138, as amended by Section 3.2 of S.L. 2002-180, reads as rewritten:

"**Section 17.1(g)** The Commission's officers shall consist of two cochairs, a vice-chair, and other officers deemed necessary by the Commission to carry out the purposes of this Article. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall appoint the cochairs of the Commission. All other officers shall be elected by the Commission. All officers shall serve for ~~four-year~~ five-year terms and shall serve until their successors are elected and qualified."

SECTION 41.5. Section 17.1(j) of S.L. 2000-138, as amended by Section 3.3 of S.L. 2002-180, reads as rewritten:

"**Section 17.1(j)** The Commission may submit to the General Assembly an interim report of its findings and recommendations. The Commission shall submit to the General Assembly a final report of its findings and recommendations no later than ~~December 31, 2004.~~ December 31, 2005. The final report may include suggestions for a permanent marker or memorial of the riot and whether to designate the event as with a historic site."

PART XLII. OFFICE OF STATE PERSONNEL STUDY (Albertson)

SECTION 42.1. The Office of State Personnel shall conduct a reclassification study of all sworn law enforcement officers employed in the Division of Parks and Recreation of the Department of Environment and Natural Resources. The Office of State Personnel shall report the results of this study to the General Assembly and the Fiscal Research Division of the General Assembly by January 3, 2005.

PART XLIII. CRAVEN AND PAMLICO TECHNICAL HIGH SCHOOL TASK FORCE STUDIES (Gorman)

SECTION 43.1. The State Board of Community Colleges, the State Board of Education, Craven Community College, and the Craven County Schools may establish a task force to develop a plan to expand students' educational opportunities within the public school system by creating a technical high school. If the task force is established, in developing the plan, the task force shall consider similar programs currently operated in the State, including, but not limited to, the Middle College program in Guilford County and the Technical High School in Union County. The task force shall also take into account the State's high school graduation requirements. If the task force is established, the task force shall report to the Joint Legislative Education Oversight Committee no later than January 15, 2005.

SECTION 43.2. The State Board of Community Colleges, the State Board of Education, Pamlico Community College, and the Pamlico County Schools may

establish a task force to develop a plan to expand students' educational opportunities within the public school system by creating a technical high school. If the task force is established, in developing the plan, the task force shall consider similar programs currently operated in the State, including, but not limited to, the Middle College program in Guilford County and the Technical High School in Union County. The task force shall also take into account the State's high school graduation requirements. If the task force is established, the task force shall report to the Joint Legislative Education Oversight Committee no later than January 15, 2005.

PART XLIV. NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION STUDY

SECTION 44.1. The North Carolina Sentencing and Policy Advisory Commission, pursuant to its statutory responsibilities under Article 4 of Chapter 164 of the General Statutes, shall study the North Carolina Structured Sentencing Act in light of the United States Supreme Court's decision in *Blakely v. Washington*, decided June 24, 2004. The Commission shall report its findings and recommendations, including any proposed legislation, to the 2005 General Assembly upon its convening.

PART XLV. LEGISLATIVE STUDY COMMISSION ON STATE GUARDIANSHIP LAWS (H.B. 1409 – Nye, Weiss, G. Wilson; S.B. 1152 – Swindell)

SECTION 45.1. There is created the Legislative Study Commission on State Guardianship Laws. The purpose of the Commission is to review State law pertaining to guardianship and its relationship to other pertinent State laws such as the health care power of attorney, the right to a natural death, and durable power of attorney.

SECTION 45.2. The Commission shall consist of 16 members as follows:

- (1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Four members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) The Director of the Administrative Office of the Courts, or the Director's designee.
- (4) The Director of the Division of Aging in the Department of Health and Human Services, or the Director's designee.
- (5) A county director of social services appointed by the President Pro Tempore of the Senate.
- (6) A clerk of superior court appointed by the Speaker of the House of Representatives.
- (7) A physician who specializes in geriatrics appointed by the President Pro Tempore of the Senate.
- (8) An attorney who has experience in guardianship matters appointed by the Speaker of the House of Representatives.
- (9) A representative of the Governor's Advocacy Council for Persons With Disabilities.
- (10) An area authority or county program director for mental health, developmental disabilities, and substance abuse services, appointed by the Speaker of the House of Representatives.

In addition, representatives designated by the following organizations shall serve as ex officio, nonvoting members of the Commission:

- (1) The North Carolina Bar Association.
- (2) The Arc of North Carolina.
- (3) North Carolina Guardianship Association.
- (4) Alzheimer's Association – Western Chapter.
- (5) Alzheimer's Association – Eastern Chapter.
- (6) Carolina Legal Assistance.
- (7) The Area Agencies on Aging.
- (8) County Departments of Aging.
- (9) Friends of Residents in Long Term Care.

The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment. The Commission shall expire upon delivering its final report.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

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 Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 45.3. In conducting the study, the Commission shall consider the following:

- (1) Whether guardianship should be a remedy of last resort used only if less restrictive alternatives are insufficient.
- (2) The definition of incompetency.
- (3) Whether courts should be required to make express findings regarding the extent of a person's incapacity and limit the scope of the guardianship accordingly.
- (4) Legal rights retained or lost as a result of being adjudicated incompetent.
- (5) The proper role of attorneys and guardians ad litem in guardianship proceedings.
- (6) The role of public human services agencies in providing guardianship services.
- (7) Legal procedures and protections in guardianship proceedings.
- (8) Public monitoring of guardianship.
- (9) Funding for guardianship services provided by public and nonprofit agencies.
- (10) Educating citizens with respect to guardianship and alternatives to guardianship.
- (11) Prudent investor rules.

- (12) Powers, duties, and liabilities of guardians.
- (13) Review of the State's adult protective services law.
- (14) Enactment of the Uniform Guardianship and Protective Proceedings Act (UGPPA).
- (15) Whether guardianship statutes need revision to provide greater protection of the health and welfare of incapacitated adults.
- (16) Whether the State should track the number of people under private guardianship and, if so, proposed methods for the tracking.

SECTION 45.4. The Legislative Study Commission on State Guardianship Laws may make an interim report to the 2005 General Assembly not later than the convening of the 2005 General Assembly, and shall make its final report to the 2006 Regular Session of the 2005 General Assembly upon its convening.

SECTION 45.5. All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

SECTION 45.6. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission.

PART XLVI. TWENTY-FIRST CENTURY REVENUE SYSTEM STUDY COMMISSION (Daughtridge)

SECTION 46.1. Findings. – The General Assembly finds the following:

- (1) In recent years, several legislative study commissions have examined North Carolina's tax system and found that restructuring is needed to achieve fairness, efficiency, and simplicity in light of the changing economics and changing needs of our State.
- (2) The Governor's Commission to Modernize State Finances built on those studies, outlining in its 2002 report the new realities of the State and the ways in which the finance structure should be revised in order to respond to modern conditions so that economic growth can continue while adequate services are provided and the tax burden is shared equitably.
- (3) These studies found that the State and local tax laws have grown increasingly Byzantine and unwieldy as each year new laws pile on additional adjustments, requirements, exceptions, and calculations, many of which are perceived as unfair preferences for special interests leaving ordinary citizens to shoulder more than their share of rising taxes. The overarching recommendation of the Governor's Commission that tax rates be lowered and tax bases broadened is a vital step toward solving these problems.
- (4) The budget shortfalls of recent years have emphasized the inadequacy of the current revenue structure to meet the State's needs. This weakness will worsen with the upcoming sunset of two major revenue sources, reinforcing the findings of legislative and executive commissions that long-term and fundamental changes are required to establish a stable, fair, and simple system for raising revenue for public services.

SECTION 46.2. Commission Created. – There is created the Legislative Study Commission on a 21st Century Revenue System. The purpose of the Commission is to build on the recommendations of past legislative and executive branch commissions to design a realignment of the State and local revenue system in accordance with a clear, consistent tax policy in light of modern economic, social, and political conditions.

SECTION 46.3. Membership. – The Commission consists of 12 members as follows:

- (1) Six Senators appointed by the President Pro Tempore of the Senate.
- (2) Six Representatives appointed by the Speaker of the House of Representatives.

SECTION 46.4. Cochairs. – The President Pro Tempore must designate one Senator as cochair, and the Speaker must designate one Representative as cochair. Vacancies on the Commission must be filled by the same appointing authority as made the initial appointment.

SECTION 46.5. Administration. – The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, must assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks must assign clerical staff to the Commission, and the expenses relating to the clerical employees must be borne by the Commission. Members of the Commission are entitled to receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 46.6. Duties. – The Commission must:

- (1) Establish the principles of taxation upon which a sound State and local tax structure should be built for the 21st century.
- (2) Recommend changes in the State and local tax structure to align it with these benchmark tax principles.
- (3) Recommend changes to simplify and consolidate existing taxes to provide uniformity; to ease the administrative burden on the taxpayer; to provide low tax rates applied to broad tax bases; and to reduce the costs of collecting and administering taxes.

SECTION 46.7. Report. – The Commission may make an interim report to the 2005 General Assembly not later than its convening, and must make its final report to the 2006 Regular Session of the 2005 General Assembly upon its convening. The Commission shall terminate the earlier of the filing of its final report or upon the convening of the 2006 Regular Session of the 2005 General Assembly.

SECTION 46.8. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission.

PART XLVII. CONTINUE JOINT COMMITTEE ON EXECUTIVE BUDGET ACT REVISIONS/ADDITIONAL STUDY (Culpepper)

SECTION 47.1. Section 6.12(b) of S.L. 2003-284 reads as rewritten:

"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 ~~2003-2005~~ 2003-2005 General Assembly on or before ~~April 1, 2004~~ its convening."

SECTION 47.2. The Joint Committee on Executive Budget Act Revisions shall consider the issues raised by the provisions contained in House Bill 1218, 2003 Regular Session, and Senate Bill 726, 2003 Regular Session, and include in its report any recommendations concerning those issues.

PART XLVIII. NORTH CAROLINA CENTRAL UNIVERSITY STUDY (H.B. 826 – Earle, Wainwright)

SECTION 48.1. North Carolina Central University, in conjunction with its Department of Sociology, may study whether there is an overrepresentation of minority youth in North Carolina youth development centers. If it undertakes the study, the University shall:

- (1) Compile and analyze data of youth development center commitments for the years 1992 to 2002, including data of the race, age, gender, and level of offense of all juveniles committed to youth development centers in all 100 counties of the State during those years;
- (2) Survey all programs throughout the State that serve as prevention programs and alternatives to commitment for juveniles adjudicated delinquent in order to analyze the impact these programs have in deterring minority youth commitment;
- (3) Assess the availability and accessibility of prevention programs and programs that serve as alternatives to commitment to minority and at-risk youth in all 100 counties of the State, including the percentage of minority and at-risk youth adjudicated delinquent who are placed in programs that serve as alternatives to commitment; and
- (4) Test data for variables contributing to minority youth overrepresentation in State youth development centers, including data related to the role of the court system in either committing juveniles to youth development centers or placing them in alternative programs.

SECTION 48.2. If it undertakes this study, North Carolina Central University shall present its findings, including policy recommendations and legislative proposals, to the Department of Juvenile Justice and Delinquency Prevention and the General Assembly on or before January 15, 2005.

PART XLIX. STUDY COMMISSION ON ECONOMIC DEVELOPMENT INFRASTRUCTURE (Harrell)

SECTION 49.1. There is created the Study Commission on Economic Development Infrastructure. The Commission shall consist of 32 members as follows:

- (1) 16 members appointed by the President Pro Tempore of the Senate.
- (2) 16 members appointed by the Speaker of the House of Representatives.

SECTION 49.2. At least half of the members appointed to the Commission by the President Pro Tempore of the Senate and at least half of the members appointed to the Commission by the Speaker of the House of Representatives shall be persons who are not members of the General Assembly and who are either actively engaged in economic development or C-Level Executives of private corporations.

SECTION 49.3. The President Pro Tempore of the Senate shall appoint two cochairs of the Commission and the Speaker of the House of Representatives shall appoint two cochairs of the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 49.4. The Commission shall examine the existing infrastructure for the delivery of economic development, including the many entities involved in economic development. The Commission shall develop a plan to restructure and consolidate the infrastructure for the delivery of economic development to improve its organization and effectiveness. The Commission shall specifically examine the role of the following in the delivery of economic development:

- (1) The Department of Commerce.
- (2) The regional councils of government created pursuant to G.S. 160A-470.
- (3) The Economic Development Board created pursuant to G.S. 143B-434. The Commission shall consider whether the Economic Development Board, which is currently advisory in nature, should be reconstituted and given responsibility for policy development or regulatory authority.
- (4) The regional planning and economic development commissions created pursuant to Article 2 of Chapter 158 of the General Statutes. The Commission shall consider whether regional planning and economic development commissions should be given greater responsibility for marketing and business recruitment.

SECTION 49.5. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 49.6. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. 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 Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 49.7. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 49.8. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART L. STUDY COMMISSION ON THE ORGANIZATION, POWERS, DUTIES, FUNCTIONS, FUNDING, AND POTENTIAL CONSOLIDATION OR ELIMINATION OF STATE BOARDS, COMMISSIONS, AND COUNCILS (Harrell)

SECTION 50.1. There is created the Study Commission on State Boards, Commissions, and Councils. The Commission shall consist of 28 members as follows:

- (1) 14 members appointed by the President Pro Tempore of the Senate.
- (2) 14 members appointed by the Speaker of the House of Representatives.

SECTION 50.2. The President Pro Tempore of the Senate shall appoint two cochairs of the Commission and the Speaker of the House of Representatives shall appoint two cochairs of the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 50.3. The Commission shall examine the organization, powers, duties, functions, and funding of State boards, commissions, and councils. The Commission shall specifically consider the following:

- (1) Whether the boards, commissions, or councils should be eliminated or consolidated with one or more other boards, commissions, or councils.
- (2) Whether the number of members serving on boards, commissions, and councils or the manner in which members are selected should be altered.
- (3) Whether the number and frequency of meetings of boards, commissions, and councils should be altered.
- (4) The cost of supporting each board, commission, or council, including salaries, per diem, travel, clerical and administrative support, and other expenses.
- (5) The productivity and effectiveness of the boards, commissions, and councils.

SECTION 50.4. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 50.5. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. 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 Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 50.6. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 50.7. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART LI. STUDY COMMISSION ON WORKER RETRAINING (Harrell)

SECTION 51.1. There is created the Study Commission on Worker Retraining. The Commission shall consist of 32 members as follows:

- (1) 16 members appointed by the President Pro Tempore of the Senate.
- (2) 16 members appointed by the Speaker of the House of Representatives.

SECTION 51.2. At least half of the members appointed to the Commission by the President Pro Tempore of the Senate and at least half of the members appointed to the Commission by the Speaker of the House of Representatives shall be persons who are not members of the General Assembly and who are actively engaged in worker retraining or welfare reform as either private citizens, administrators of State agencies, or administrators or faculty at community colleges in the State.

SECTION 51.3. The President Pro Tempore of the Senate shall appoint two cochairs of the Commission and the Speaker of the House of Representatives shall appoint two cochairs of the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 51.4. The Commission shall examine:

- (1) Business incentives that encourage employers to support efforts by employees to retrain in order to qualify for higher paying or non-exportable jobs by allowing employees time off, reimbursing employees for education expenses, or providing other support.
- (2) Successful retraining incentive programs in this and other states.

SECTION 51.5. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 51.6. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. 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 Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 51.7. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 51.8. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART LII. NORTH CAROLINA BLUE RIBBON COMMISSION ON MEDICAID REFORM

SECTION 52.1. S.L. 2003-284, Section 6.14A.(b) reads as rewritten:

"**SECTION 6.14A.(b)** The Commission shall consist of ~~12~~16 members appointed as follows:

- (1) ~~Six~~Eight members appointed by the Speaker of the House of Representatives, including one member who shall be designated as House Cochair. No more than ~~three~~ five may be legislators.
- (2) ~~Six~~Eight members appointed by the President Pro Tempore of the Senate, including one member who shall be designated as Senate Cochair. No more than ~~three~~ five 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."

PART LIII. BILL AND RESOLUTION REFERENCES

SECTION 53.1. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

SECTION 53.2. If House Bill 1414, 2003 Regular Session, becomes law, then Section 31.18A.(g) of that act reads as rewritten:

"**SECTION 31.18A.(g)** Notwithstanding any other provision of law, effective July 1, 2004, each local school administrative unit or charter school participating in the Teachers' and State Employees' Retirement System shall pay to the Teachers' and State Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy hundredths percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid. Each local school administrative unit or charter school shall report monthly to the Retirement Systems Division on payments made pursuant to this subsection.

Notwithstanding any other provision of law, effective July 1, 2004, any portion of the payment made by a local school administrative unit to a reemployed teacher who is exempt from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution rate, that exceeds the State-supported salary level for that position shall be paid from local funds."

PART LIV. EFFECTIVE DATE AND APPLICABILITY

SECTION 54.1. Except as otherwise specifically provided, this act is effective when it becomes law. If a study is authorized both in this act and in the Current Operations and Capital Improvements Appropriations Act of 2004, the study

shall be implemented in accordance with the Current Operations and Capital Improvements Appropriations Act of 2004 as ratified.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 4:47 p.m. on the 2nd day of August, 2004.

S.B. 20**Session Law 2004-162**

AN ACT TO REQUIRE LICENSURE OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 89 of Chapter 58 of the General Statutes is rewritten to read:

"Article 89.

"North Carolina Professional Employer Organization Act.

"Part 1. In General.

"§ 58-89-1. Title.

This Article shall be known and may be cited as the "North Carolina Professional Employer Organization Act".

"§ 58-89-5. Definitions.

In this Article:

- (1) "Applicant" means a person applying for a license or a group license under this Article.
- (2) "Assigned employee" means an employee who is performing services for a client company under a contract between a licensee and a client company in which employment responsibilities are shared or allocated. "Assigned employee" does not include a temporary employee. Individuals who are directors, shareholders, partners, and managers of a client company are assigned employees to the extent the licensee and the client have agreed that those individuals are assigned employees and provided that those individuals meet the criteria of this subdivision and act as operational managers or perform reviews for the client company.
- (3) "Audited GAAP financial statement" means a financial statement that is audited by an independent certified public accountant and presented in accordance with generally accepted accounting principles.
- (4) "Client company" or "client" means a person that contracts with a licensee and is assigned employees by the licensee under that contract.
- (5) "Control", including the terms "controlling", "controlled by", and "under common control with" means the direct or indirect possession 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 other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if any natural 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 made in the manner provided by rule of the Commissioner. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.
- (6) "Financial responsibility" means the current and expected future condition of financial solvency sufficient to support a reasonable expectation that an applicant or licensee can successfully conduct its business without jeopardizing the interests of its assigned employees, client companies, or the public.
- (7) "Good moral character" means a personal history of honesty, trustworthiness, fairness, a good reputation for fair dealings, and respect for the rights of others and for state and federal laws.
- (8) "Hazardous financial condition" has the same meaning as in G.S. 58-47-60(9).
- (9) "Licensee" means a person licensed under this Article to provide professional employer services. The term includes a professional employer organization group licensed under G.S. 58-89-35(b). Unless specifically stated otherwise in this Article, "licensee" includes persons who are licensed under this Article pursuant to alternative licensing procedures as set forth in G.S. 58-89-76.
- (10) "Managed services" means services provided by an organization that is the sole employer of employees whom it supplies to staff and manage a specific portion of a company's workforce or a specific facility within a company on an ongoing basis. The managed services organization has responsibility for ensuring the capabilities and skills of the employees it supplies or provides, for all employer functions, for supervisory responsibility over the employees, and for management accountability of the facility or function.
- (11) "PEO agreement" means a written contract by and between a client company and a professional employer organization that provides:
- a. For the allocation and sharing between the client company and the licensee of the responsibilities of employers with respect to the assigned employees, including hiring, firing, and disciplining of employees; and
 - b. That the licensee and the client company assume the responsibilities required by this Article.
- (12) "Person" has the same meaning as in G.S. 58-1-5(9).
- (13) "Personnel placement service" means a job placement service offered through an organization that assists persons seeking employment to find a job with companies that are seeking employees. Companies that hire persons through a personnel placement service are the sole employers of the persons hired, and the personnel placement service does not have any responsibility as an employer.
- (14) "Professional employer services" means an arrangement by which employees of a licensee are assigned to work at a client company and in which employment responsibilities are in fact shared by the licensee and the client company in accordance with G.S. 58-89-100, the

employee's assignment is intended to be of a long-term or continuing nature, rather than temporary or seasonal in nature, and a majority of the workforce at a client company work site or a majority of the personnel of a specialized group within that workforce consists of assigned employees of the licensee. "Professional employer services" does not include services that provide temporary employees or independent contractors, a personnel placement service, managed services, payroll services that do not involve employee staffing or leasing, the sharing of employees by commonly owned companies within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended, or similar groups that do not meet the requirements of this subdivision.

- (15) "Professional employer organization" or "PEO" means a person that offers professional employer services and includes "staff leasing services companies", "employee leasing companies", "staff leasing companies", and "administrative employers" who offer or propose to offer professional employer services in this State.
- (16) "Professional employer organization group" or "PEO group" means a combination of professional employer organizations that operates under a group license issued under this Article or is otherwise subject to group licensure requirements under G.S. 58-89-35(b).
- (17) "Temporary employees" means persons employed under an arrangement by which an organization hires its own employees and assigns them to a client company to support or supplement the client's workforce in a special work situation, including:
 - a. An employee absence;
 - b. A temporary skill shortage;
 - c. A seasonal workload; or
 - d. A special assignment or project.

"§ 58-89-10. North Carolina Professional Employer Organization Advisory Council.

(a) There is created the North Carolina Professional Employer Organization Advisory Council to advise, consult with, and make recommendations to the Commissioner on the regulation of professional employer organizations, as requested by the Commissioner. The Council shall consist of 11 members as follows:

- (1) The Commissioner of Insurance or the Commissioner's designee, ex officio.
- (2) The Commissioner of Labor or the Commissioner's designee, ex officio.
- (3) The Chair of the North Carolina Industrial Commission or the Chair's designee, ex officio.
- (4) Two members appointed by the Governor, from a list of five persons recommended by the North Carolina Industrial Commission.
- (5) Two members appointed by the Governor who are not involved directly or indirectly with the professional employer services industry.
- (6) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate.

- (7) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has 3,000 or more assigned employees.
- (8) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives.
- (9) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has less than 3,000 assigned employees.

Initial terms begin January 1, 2005.

(b) Other than the initial members of the Council and members of the Council serving ex officio, members of the Council shall serve three-year terms. Initial members of the Council shall serve staggered terms as follows:

- (1) The following initial members shall serve terms of three years:
 - a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.
 - b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.
 - c. One member appointed by the Governor who is not directly involved with the professional employer services industry.
 - d. The member appointed by the General Assembly upon the recommendation of the House of Representatives who is involved with a professional employer organization.
- (2) The following initial members shall serve terms of two years:
 - a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.
 - b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
 - c. One member appointed by the Governor who is not directly or indirectly involved in the professional employer services industry.
 - d. The member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who is involved with a professional employer organization.

(c) The Commissioner of Insurance shall serve as chair of the Council and shall call all meetings of the Council.

(d) The Governor may remove any member of the Council appointed by the Governor for misconduct, incompetence, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. The appointing authority making the original appointment shall appoint successors.

(e) All vacancies occurring on the Council shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in

appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(f) The Department of Insurance shall furnish the Council with meeting space and clerical and other services required by the Council to conduct its business.

(g) The members of the Council shall not receive compensation or per diem for their service on the Council.

"§ 58-89-15. Rules.

(a) The Commissioner may adopt rules necessary to implement, administer, and enforce the provisions of this Article.

(b) Each licensee and each person subject to licensure requirements under this Article are subject to the provisions of this Article and to the rules adopted by the Commissioner.

(c) Nothing in this Article preempts the existing statutory or rule-making authority of any other State agency or entity to regulate professional employer services in a manner consistent with the statutory authority of that State agency or entity.

"§ 58-89-20. Interagency cooperation.

A State agency, in performing duties under other law that affects the regulation of professional employer services, shall cooperate with the Commissioner as necessary to implement, administer, and enforce this Article.

"§ 58-89-25. Effect of other law on client companies and assigned employees.

(a) This Article does not exempt a client company of a licensee, or any assigned employee, from any other license requirements imposed under local, State, or federal law.

(b) An employee who is licensed, registered, or certified under law and who is assigned to a client company is considered to be an employee of the client company for the purpose of that license, registration, or certification.

(c) A licensee is not engaged in the unauthorized practice of an occupation, trade, or profession that is licensed, certified, or otherwise regulated by a State agency or other political subdivision of the State, including a county or city, by entering into a PEO agreement with a client company and assigned employees.

(d) With respect to a bid, contract, purchase order, program, or agreement entered into with the State or a political subdivision of the State, or State program or benefit otherwise available to a client company, a client company's status, certification, or qualification pursuant to the bid, contract, benefit, program, agreement, or State program shall not be affected because the client company has entered into an agreement with a licensee or utilizes the services of a licensee.

(e) Nothing in this Article or in any PEO agreement or other professional employer services contract shall affect, modify, or amend any collective bargaining agreement or the rights or obligations of any client company, professional employer organization, or any assigned employee under the National Labor Relations Act, 29 U.S.C. § 151, et seq.

"§ 58-89-30. Other provisions of this Chapter.

G.S. 58-2-45, 58-2-50, 58-2-55, 58-2-60, 58-2-65, 58-2-69, 58-2-70, 58-2-75, 58-2-100, 58-2-155, 58-2-163, 58-2-180, 58-2-185, 58-2-200, and 58-3-100 shall apply to all persons licensed under this Article and all persons subject to licensure requirements under this Article.

"§ 58-89-31. Tax credits and other incentives.

For purposes of determination of tax credits and other economic incentives provided by the State and based on employment, covered employees are considered employees

solely of the client. A client shall be entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of covered employees of the client. Each professional employer organization must provide, upon request by a client, employment information that is required by any agency or department of the State responsible for administration of any tax credit or economic incentive and that is necessary to support a request, claim, application, or other action by a client seeking the tax credit or economic incentive.

"Part 2. License Requirements and Limitations.

"§ 58-89-35. License required; professional employer organization groups.

(a) No person shall engage in or offer professional employer services in this State unless the person holds a license issued under this Article.

(b) Two or more professional employer organizations that are controlled by the same ultimate parent, entity, or persons may be licensed as a professional employer organization group. A professional employer organization group may satisfy the reporting and financial requirements of this Article on a consolidated basis. As a condition of licensure as a professional employer organization group, each professional employer organization that is a member of the group shall guarantee payment of all financial obligations of every other member. Notwithstanding the definition of "person" in this Article, whenever two or more entities combine to seek issuance of a single license under this Article, the requirements for group licensure under this subsection shall be met before issuance of a license and any license issued will be a group license issued pursuant to this subsection.

"§ 58-89-40. Qualifications for controlling person.

(a) To be qualified to serve as a controlling person of a licensee under this Article, the controlling person shall be at least 18 years of age, be of good moral character, and have educational, managerial, or business experience relevant to:

- (1) Operation of a professional employer organization; or
- (2) Service as a controlling person of a professional employer organization.

(b) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76 or to entities that are controlling persons.

"§ 58-89-45. Reserved.

"§ 58-89-50. Surety bond; letter of credit.

(a) An applicant for licensure shall file with the Commissioner a surety bond in the amount of one hundred thousand dollars (\$100,000) in favor of the State of North Carolina.

(b) The surety bond required by this section shall be in a form acceptable to the Commissioner, issued by an insurer authorized by the Commissioner to write surety business in this State, and maintained in force while the license remains in effect or any obligations or liabilities of the applicant, licensee or PEO previously licensed by this State remain outstanding.

(c) The surety bond required by this section may be exchanged or replaced with another surety bond that meets the requirements of this section if 90 days' advance written notice is provided to the Commissioner.

(d) A licensee shall not require a client company to contribute in any manner to the payment of the surety bond required by this section.

(e) Notice of cancellation or nonrenewal of the surety bond required by this section shall be provided to the Commissioner in writing at least 45 days before cancellation or nonrenewal.

(f) In lieu of the surety bond required by this section, an applicant may submit to the Commissioner an irrevocable letter of credit in a form acceptable to the Commissioner issued by a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or may maintain on deposit with the Commissioner an amount equal to the amount required under subsection (a) of this section in cash or in value of securities of the kind specified in G.S. 58-5-20 and subject to the same conditions as the surety bond.

(g) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

"§ 58-89-55. Reserved.

"§ 58-89-60. License application.

(a) Every applicant for licensure shall file with the Commissioner, on a form prescribed by the Commissioner, the following information:

- (1) The name, organizational structure, and date of organization of the applicant, the addresses of the principal office and of all offices in this State, the name of the contact person, the type of operations within this State, and the taxpayer or employer identification number.
- (2) A list by jurisdiction of each name under which the applicant has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, names of successor business entities. The list required by this subdivision shall include the parent company name and any trade name, trademark, or service mark of the applicant.
- (3) A list of all officers and controlling persons of the applicant, their biographical information, including their management background, and an affidavit from each attesting to his or her good moral character and management competence.
- (4) The location of the business records of the applicant.
- (5) An attestation, executed by the chief financial officer and chief executive officer of the applicant, that the applicant is current as of the date the application is submitted with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any such obligations are in dispute with a client as of the date the application is submitted and the disputed amount is material when considered in the context of the applicant's most recent audited financial statement, then the applicant shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.
- (6) Any other information the Commissioner deems necessary and requires by rule to establish that the applicant and the officers and controlling persons are of good moral character, have business integrity, and have financial responsibility.

(b) Every applicant shall file with the Commissioner evidence of financial responsibility. Evidence of financial responsibility includes an audited GAAP financial statement, prepared as of a date not more than 90 days before the date of application that demonstrates that the applicant or licensee is not in a hazardous financial condition

and attached to which is a separate document signed by the chief executive and the chief financial officer certifying that (i) each has reviewed the financial statement; (ii) based on each signatory's knowledge, the financial statement does not contain any untrue or misleading statement of material fact or omit a fact with respect to the period covered by the financial statement; and (iii) based on each signatory's knowledge, the financial statement fairly presents in all material respects the financial condition of the licensee as of, and for, the period presented in the financial statement.

Notwithstanding the requirements of this subsection, the Commissioner may, in the Commissioner's discretion, accept an audited GAAP financial statement that has been prepared more than 90 days before submission to the Commissioner if the Commissioner deems such acceptance appropriate. The Commissioner may, in the Commissioner's discretion, impose conditions upon such acceptance of financial statements prepared more than 90 days prior to submission.

(c) Every applicant shall submit to the Commissioner the application fee pursuant to G.S. 58-89-65.

(d) Every applicant shall furnish the Commissioner a complete set of fingerprints and a recent photograph in a form prescribed by the Commissioner of each officer, director, and controlling person. Each set of fingerprints shall be certified by an authorized law enforcement officer.

Upon request by the Department, the Department of Justice shall provide to the Department from the State and National Repositories of Criminal Histories the criminal history of any applicant and the officer, director, and controlling person of any applicant. Along with the request, the Department shall provide to the Department of Justice the fingerprints of the person that is the subject of the request, a form signed by the person that is the subject of the request 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 person'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 may forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department shall keep all information obtained pursuant to this subsection 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.

In the event that an applicant has secured a professional employer organization license in another state in which the professional employer organization's controlling persons have completed a criminal background investigation within 12 months of this application, a certified copy of the report from the appropriate authority of that state may satisfy the requirement of this subsection. This subsection also applies to a change in a controlling party of a professional employer organization. For purposes of investigation under this subsection, the Commissioner shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this Chapter.

(e) An application for licensure of a professional employer organization group shall contain the information and submissions required by this section for each member of the group.

(f) No application is complete until the Commissioner has received all information and submissions required under subsections (a) through (e) of this section.

Subsections (a) through (e) of this section do not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

(g) The Commissioner may deny the license of an applicant under this Article if, after notice to the applicant and an opportunity for a hearing, the Commissioner finds that a controlling person has:

- (1) Made any untrue material statement regarding the background or experience of any controlling person;
- (2) Violated, or failed to comply with, any professional employer services law or any rule or order of the Commissioner or of any other State official responsible for the regulation of professional employer services;
- (3) Obtained or attempted to obtain the license through misrepresentation or fraud;
- (4) Been convicted of a felony;
- (5) Been found in a final judgment or administrative proceeding to have committed fraud or an unfair trade practice; or
- (6) Been a controlling person in another professional employer organization that has had its license or registration suspended, terminated, or revoked by any state.

(h) If the Commissioner finds that the applicant has not fully met the requirements for licensure, the Commissioner shall refuse to issue the license and shall notify the applicant in writing of the denial, stating the grounds for the denial. The application may also be denied for any reason for which a license may be suspended or terminated under G.S. 58-89-155. To obtain a review to determine the reasonableness of the Commissioner's denial, the applicant shall make written demand upon the Commissioner within 30 days after notice is given under G.S. 150B-38(c). The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. If the applicant disagrees with the outcome of the review and seeks a hearing, under Article 3A of Chapter 150B of the General Statutes, on the outcome of the review, the applicant shall make a written demand upon the Commissioner for the hearing within 30 days after notice of the outcome of the review is given under G.S. 150B-38(c).

(i) Removal, demotion, or discharge of a controlling person in response to an order of the Commissioner of the alleged unsuitability of that person is an affirmative defense to any claim by that individual based on the removal, demotion, or discharge.

(j) The Commissioner may, in the Commissioner's discretion, waive the required evaluation of an officer, director or controlling person if that officer, director or controlling person has been evaluated previously under this Article.

(k) After denial, suspension, or termination of a license, and before issuing a new license or reinstating a license, the Commissioner shall review and consider:

- (1) The extent to which the applicant or licensee has adequately corrected any problems; and
- (2) Whether the applicant or licensee has demonstrated that the applicant or licensee had exercised due diligence to avoid the reason or reasons for the denial or termination.

The applicant or licensee bears the burden of proof with respect to subdivisions (1) and (2) of this subsection.

"§ 58-89-65. Fees.

(a) Each applicant for a professional employer organization license or limited professional employer organization license shall pay to the Commissioner, before the issuance of the license, a nonrefundable application fee of one thousand dollars (\$1,000).

(b) Each licensee shall pay to the Commissioner when filing the information required under G.S. 58-89-70(d) an annual filing fee of one thousand dollars (\$1,000).

(c) Each applicant for alternative licensing under G.S. 58-89-76 and each applicant for renewal of a license provided under G.S. 58-89-76 shall pay to the Commissioner, before issuance or renewal of the license, a fee of five hundred dollars (\$500.00).

(d) When the Commissioner finds that a licensee has committed an act that is a ground for disciplinary violation under G.S. 58-89-155 or that a licensee has committed a prohibited act in violation of G.S. 58-89-170, and such decision becomes final following the conclusion of all administrative or judicial proceedings, the Commissioner may charge an applicant or licensee reasonable fees to recover the Department's costs associated with investigations, inspections, examinations, and any other administrative or enforcement responsibilities created under this Article.

(e) Fees collected by the Commissioner under this Article shall be deposited in the Insurance Regulatory Fund under G.S. 58-6-25 and shall be used to implement this Article.

"§ 58-89-70. License issuance and maintenance.

(a) The Commissioner shall issue a license to an applicant whom the Commissioner determines has satisfied the requirements of this Article not later than the 90th day after the date on which the completed application is filed with the Commissioner. The Commissioner shall notify an applicant of any deficiency in the application not later than the 60th day after the date on which the Commissioner receives the application.

(b) A license issued by the Commissioner under this Article shall remain in effect until revoked, suspended, surrendered, or otherwise terminated.

(c) By obtaining licensure under this Article, the controlling persons of a licensee certify, under penalty of law, their compliance with the requirements of licensure and of operation as a professional employer organization pursuant to this Article.

(d) Within 120 days after the end of each fiscal year, each licensee shall file with the Commissioner all of the following information:

- (1) Evidence of "financial responsibility" as set forth in G.S. 58-89-60(b).
- (2) Any information required by G.S. 58-89-60(a) for which there has been a change since the last or initial filing. Any change of controlling persons may subject the licensee to a background investigation of those controlling persons as required by G.S. 58-89-60.
- (3) The annual filing fee, pursuant to G.S. 58-89-65.
- (4) Any other information the Commissioner determines is needed for the review of a licensee.

(e) In order to maintain licensure, each licensee may be required to file with the Commissioner no later than 45 days after the end of each quarter of the fiscal year:

- (1) A financial statement for the preceding quarter that is not audited but is set forth in a format similar to the annual audited GAAP financial statement; and
- (2) An attestation, executed by the chief financial officer and the chief executive officer of the licensee, that the licensee is current with

respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any of the obligations listed in this subdivision are in dispute with a client and the disputed amount is material when considered in the context of the licensee's most recent audited financial statement, then the licensee shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

"§ 58-89-75. Limited license.

The Commissioner, by rule, shall provide for the issuance of a limited license to a person who seeks to offer limited professional employer services in this State.

"§ 58-89-76. Alternative licensing.

The Commissioner, by rule, may provide for the acceptance of an affidavit by a bonded, independent, and qualified assurance organization that has been approved by the Commissioner certifying the qualifications of a professional employer organization for licensing under this Article in lieu of the requirements of G.S. 58-89-40 through G.S. 58-89-60. A professional employer organization licensed under this section shall be exempt from the provisions of G.S. 58-89-70(c), (d), and (e).

"§ 58-89-80. License not assignable; change of name or location.

(a) A licensee shall not conduct business under any name other than that specified in the license. A license issued under this Article is not assignable. A licensee shall not conduct business under any fictitious or assumed name without prior written authorization from the Commissioner. The Commissioner shall not authorize the use of a name that is so similar to that of a public office or agency or to that of another licensee that the public may be confused or misled by the name's use. A licensee shall not conduct business under more than one name unless the licensee has obtained a separate license for each name or the licensee is operating under a group license pursuant to G.S. 58-89-35.

(b) Except as provided in this subsection, a licensee may change the licensee's licensed name only once in a calendar year by notifying the Commissioner and paying a fee for the change of name. The fee for a name change shall be fifty dollars (\$50.00). A licensee may change the licensee's name without the payment of the name change fee if the name change is submitted with the information required by G.S. 58-89-70(d). If a licensee has changed its name once during a calendar year, the licensee shall not change its name again unless the name change is approved by the Commissioner.

(c) A licensee shall notify the Commissioner in writing within 30 days of any change in the status of the licensee, including:

- (1) Any change in the location of the licensee's primary business office;
- (2) The addition of or change in the location of any other business offices providing professional employer services in this State; and
- (3) A change in the location of business records maintained by the licensee.

(d) A licensee may advertise in this State using only the name that is on the license issued by the Commissioner.

(e) Each written proposal provided to a prospective client company and each PEO agreement between a licensee and a client company or assigned employee shall clearly identify the name of the licensee.

"§ 58-89-85. Supervision; rehabilitation; liquidation.

If at any time the Commissioner determines, after notice and an opportunity for the licensee to be heard, that a licensee (i) has been or will be unable, in such a manner as

may endanger the ability of the licensee, to fully perform its obligations pursuant to this Article or (ii) is bankrupt or in a hazardous financial condition, the Commissioner may either (i) commence a supervision proceeding pursuant to Article 30 of this Chapter or (ii) apply to the Superior Court of Wake County or to the federal bankruptcy court that has previously taken jurisdiction over the licensee, if applicable, for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or to liquidate a licensee in accordance with Article 30 of this Chapter.

"§ 58-89-90. Reserved.

"Part 3. Licensee Duties and Responsibilities.

"§ 58-89-95. Agreement; notice.

(a) A licensee shall establish the terms of a PEO agreement by a written contract between the licensee and the client company.

(b) The licensee shall give written notice of the agreement, by agreement or otherwise, as it affects assigned employees to each employee assigned to a client company work site. This written notice shall be given to each assigned employee not later than the first payday after the date on which that individual becomes an assigned employee.

(c) The licensee shall give each employee written notice when the employee ceases to be an employee of the licensee.

"§ 58-89-100. Contract requirements.

A contract between a licensee and a client company shall provide:

- (1) That the licensee reserves a right of direction and control over employees assigned to a client company's work sites. However, a client company may retain such sufficient direction and control over the assigned employees as is necessary to conduct the client company's business and without which the client company would be unable to conduct its business, to discharge any fiduciary responsibility that it may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client company. The PEO agreement shall provide that employment responsibilities not allocated to the licensee by the PEO agreement or this section remain with the client company.
- (2) That the licensee assumes responsibility for the payment of wages to the assigned employees as agreed to in the PEO agreement.
- (3) That the licensee assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on assigned employees.
- (4) That the licensee reserves a right to hire, fire, and discipline the assigned employees.
- (5) That the licensee retains a right of direction and control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal laws and the laws of this State.
- (6) That responsibility to obtain workers' compensation coverage for assigned employees, from an entity authorized to do business in this State and otherwise in compliance with all applicable requirements, shall be specifically allocated in the PEO agreement to either the client company or the licensee. If the responsibility is allocated to the licensee under any such agreement, that agreement shall require that the licensee maintain and provide to the client company, at the termination of the agreement if requested by the client company,

records regarding the loss experience related to workers' compensation insurance provided to assigned employees pursuant to the agreement.

"§ 58-89-105. Employee benefit plans; required disclosure; other reports.

(a) A licensee may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(b) A client company may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(c) If a licensee offers to its assigned employees any health benefit plan that is not fully insured by an authorized insurer, the plan shall:

(1) Utilize a third-party administrator licensed or registered to do business in this State;

(2) Hold all plan assets, including participant contributions, in a trust account; and

(3) Provide sound reserves for the plan as determined using generally accepted actuarial standards.

(d) For purposes of this section, a "health benefit plan that is not fully insured by an authorized insurer" includes any arrangement except an arrangement under which an insurance company licensed to write insurance in this State has issued an insurance policy that covers all of the obligations of the health benefit plan.

"§ 58-89-110. Workers' compensation insurance.

(a) A licensee or the licensee's client company shall provide workers' compensation insurance coverage through a licensed insurance carrier or a licensed self-insurance plan for the licensee's assigned employees as provided in Chapter 97 of the General Statutes, the Workers' Compensation Act. To the extent that the licensee secures and maintains workers' compensation coverage for assigned employees, the carrier may elect to provide such coverage to the licensee pursuant to either the multiple coordinated policy method, as set forth in subsection (b) of this section, or the single policy method, as set forth in subsection (c) of this section.

(b) If the licensee provides workers' compensation coverage pursuant to the multiple coordinated policy method, the licensee shall secure a separate policy for each client company of the licensee. Each policy shall identify the name of the client company and the licensee. The licensee shall be named as the insured and identify the client company. The licensee shall specify that it is the labor contractor for the client company by using the designation "L/C/F" on the policy.

Each policy shall expire on the same date. The policy shall not include coverage for nonleased employees of the client company or employees solely employed by the licensee. Only the licensee, as the first-named insured under such a policy, may request the insurer to cancel the policy. Each policy shall be sent to the licensee as the named insured.

The client company of a licensee shall have a continuing obligation to provide coverage as required by Chapter 97 of the General Statutes, the Workers' Compensation Act, for any employees of the client company who are not assigned employees and not otherwise covered under a policy described in this subsection.

If a client company of a licensee leases employees from more than one licensee, there shall be a separate policy for the assigned employees of each licensee.

The workers' compensation carrier also shall issue a policy covering the internal employees of the licensee unless they are otherwise covered.

All policies written in accordance with this subsection by the same insurance carrier that reference the same licensee as labor contractor shall be combined for premium discount purposes.

When policies written in accordance with this subsection are written by the same insurance carrier, the carrier and licensee may agree to a retrospective rating program or any other permitted pricing program.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

(c) If the licensee provides workers' compensation coverage pursuant to the single policy method, the insurer shall issue to the licensee a single policy covering all assigned employees in this State in accordance with Chapter 97 of the General Statutes, the Workers' Compensation Act, and any other applicable laws or rating plans of this State.

As a condition of issuing a single policy, the licensee shall provide to the insurer of the policy all of the following information regarding each client company of the licensee with assigned employees in this State:

- (1) The correct legal name, any fictitious names, and the federal identification number.
- (2) The name and address of the president and chief executive officer.
- (3) The business mailing address.
- (4) The business telephone number and facsimile number.

The licensee shall also provide to the insurer the name and address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

The insurer shall issue to each client company of the licensee a certificate of insurance on the single policy. The certificate of insurance shall require that the insurer provide notice of cancellation to the licensee and the client company of the licensee.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

If the insurer fails to provide individual notices of cancellation to the licensee and the client company, the insurer shall remain liable on the risk for losses incurred by the client company that would have been covered by the workers' compensation policy prior to the attempted cancellation.

(d) A license shall not be issued to any professional employer organization unless the organization first files with the Commissioner evidence of workers' compensation coverage for all assigned employees in this State, including those leased from or coemployed with another person, and that the premium paid by the licensee is commensurate with exposure and anticipated claim experience for all employees covered under policies in the name of the licensee.

(e) Each licensee shall maintain and make available to its workers' compensation carrier on an annual basis the following information:

- (1) The correct name and federal identification number of each client company.
- (2) A listing of all covered employees provided to each client company, by classification code.
- (3) The total eligible wages, by classification code, and the premiums due to the carrier for the employees provided to each client company.

(4) Sufficient information to permit the calculation of an experience modification factor for each client company upon termination of the professional employer relationship. Information accruing during the term of the leasing arrangement that is used to calculate an experience modification factor for a client company upon termination of the leasing relationship shall continue to be used in the future experience ratings of the licensee.

(f) Every Form 19 "Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission" filed with the Industrial Commission shall identify by name and address both the licensee and the client company employing the employee who is the subject of the Form 19.

(g) A licensee shall, within 30 days of initiation or termination of the licensee's relationship with any client company, notify its workers' compensation carrier, the Commissioner, and the North Carolina Industrial Commission of both the initiation and termination of the relationship. If the client company terminates the relationship between the licensee and the client company, the notice required by this subsection shall be given within 10 days of the licensee's actual knowledge of the termination.

(h) If the professional employer services arrangement with a client company is terminated, the client company shall be assigned an experience modification factor that reflects its experience during the experience period specified by the approved experience rating plan, including, if applicable, experience incurred for assigned employees under the PEO agreement.

(i) A client company shall not enter into a PEO agreement or be eligible for workers' compensation coverage in the voluntary market if the client-workers' company owes its current or prior carrier any premium for workers' compensation insurance, or if the client company owes its current or prior professional employer organization amounts due under the PEO agreement, except for premiums or amounts due that are subject to dispute. For the purposes of this section and compliance with other laws and rules, a licensee may rely on a statement by the client company that the client company has met any and all prior premium or fee obligations, unless the licensee has actual knowledge to the contrary.

(j) This section shall not prevent a client company of a licensee from providing workers' compensation insurance coverage for assigned employees coemployed by the client company and the licensee through a policy of insurance issued by a licensed insurance carrier in the name of the client company as the insured.

(k) Irrespective of whether the licensee or client company maintains the policy of workers' compensation insurance for the covered employees pursuant to the PEO agreement, the licensee and the client company shall be entitled to the exclusivity of the remedy under both the workers' compensation and the employer liability provision of the workers' compensation policy or plan that either party has secured and shall both be afforded the protections provided under Chapter 97 of the General Statutes. The licensee shall be entitled, along with the client company, to the exclusivity of the remedy under both the workers' compensation and employers' liability provision of the workers' compensation policy or plan that either party has secured.

(l) All assigned risk policies for client companies of the same licensee shall be assigned to one workers' compensation carrier in the State and in other states to the extent possible.

"§ 58-89-112. Liabilities.

Subject to any contrary provisions thereof, the PEO agreement shall be interpreted for purposes of insurance, bonding, and employer's liability as follows:

- (1) A licensee is not liable for the acts, errors, or omissions of a client company or of any assigned employee or for the quality, adequacy, or safety of the goods or services produced or sold in the client company's business. A client company is not liable for the acts, errors, or omissions of a licensee or of any employee of a licensee. Nothing in this section limits any contractual liability between a licensee and the client company or limits any liability or responsibility under this Article.
- (2) Employees assigned to a client company by a licensee are the employees of the client company for the purposes of general liability insurance, automobile insurance, fidelity bonds, surety bonds, and liquor liability insurance carried by the client company unless the employees are included by specific reference in the applicable PEO agreement, insurance contract, or bond.

"§ 58-89-115. Benefit plan notice.

(a) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall disclose all of the following information to the Commissioner and each client company:

- (1) The type of coverage.
- (2) The identity of each insurer for each type of coverage.
- (3) The amount of benefits provided for each type of coverage and to whom or on whose behalf benefits are to be paid.
- (4) The policy limits on each insurance policy.
- (5) Whether the coverage is fully insured, partially insured, or fully self-funded.

(b) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall provide to the insurer the name and address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

(c) Whenever any insurance policy or benefit plan is cancelled, the insurance company writing the policy shall provide a notice of cancellation as required by this Chapter.

(d) The licensee shall notify the client company and the Commissioner in writing about a discontinuance and replacement, if any, of any health plan or workers' compensation insurance coverage no later than 10 business days after the discontinuance.

(e) The Commissioner, by rule, may require a licensee to file other reports that are reasonably necessary for the administration and enforcement of this Article.

"§ 58-89-120. Unemployment taxes; payroll.

A licensee is the employer of an assigned employee for purposes of Chapters 95, 96 and 105 of the General Statutes. Nothing in this section shall otherwise affect the levy and collection of unemployment insurance contributions or the assignment of discrete employer numbers pursuant to G.S. 96-9(c)(4) and the definitions set forth in G.S. 96-8(4), 96-8(5), and 96-8(6). The Employment Security Commission shall cooperate with the Commissioner in the investigation of applicants and licensees and shall provide the Commissioner with access to all relevant records and data in the custody of the Employment Security Commission.

"§ 58-89-125. Posting requirements.

(a) Each licensee shall post the license issued under this Article in a conspicuous place in the licensee's principal place of business in this State.

(b) Each licensee shall display, in a place that is in clear and unobstructed public view, a notice stating that the business operated at the location is licensed and regulated by the Commissioner and that any questions or complaints may be directed to the Commissioner.

"§ 58-89-130. Contractual duties.

Each licensee is responsible for the licensee's contractual duties and responsibilities to manage, maintain, collect, and make timely payments for all of the following:

- (1) Insurance premiums.
- (2) Benefit and welfare plans.
- (3) Other employee withholding.
- (4) Any other expressed responsibility that is within the scope of the PEO agreement and that fulfills the duties imposed under this Article.

"§ 58-89-135. Compliance with other laws.

Each licensee shall comply with all appropriate State and federal laws relating to reporting, sponsoring, filing, and maintaining benefit and welfare plans.

"§ 58-89-140. Required information.

Each licensee shall:

- (1) Maintain adequate books and records regarding the licensee's duties and responsibilities, including accounting and employment records relating to all PEO agreement activities, for a minimum of three years.
- (2) Maintain and make available at all times to the Commissioner the following information, which shall be treated as proprietary and confidential and which is exempt from disclosure to persons other than other governmental agencies that have a reasonable, legitimate purpose for obtaining the information:
 - a. The correct name, address, and telephone number of each client company.
 - b. Each client company contract or PEO agreement.
 - c. A listing of each client company by classification code as described in the "Standard Industrial Classification Manual" published by the United States Office of Management and Budget.

"§ 58-89-145. Examinations.

(a) The Commissioner may conduct an examination of a licensee as often as the Commissioner considers appropriate.

(b) An examination under this Article shall be conducted in accordance with the Examination Law of this Chapter, G.S. 58-2-131 through G.S. 58-2-134.

(c) In lieu of an examination of any foreign or alien person licensed under this Article, the Commissioner may, in the Commissioner's discretion, accept an examination report on the licensee prepared by the appropriate regulator for the licensee's state of domicile.

(d) When making an examination under this Article, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

"§ 58-89-150. Agent for service of process.

Each resident licensee shall maintain a registered agent for the service of process in this State. The Commissioner shall be each nonresident licensee's agent for service of process as provided in Article 16 of this Chapter.

"Part 4. Penalties and Sanctions.

"§ 58-89-155. Grounds for disciplinary action.

(a) The Commissioner may take disciplinary action against a licensee or any person subject to licensure requirements under this Article on any of the following grounds:

- (1) Being convicted or having an officer or controlling person of the licensee convicted of:
 - a. Bribery, fraud, or intentional or material misrepresentation in obtaining or attempting to obtain a license;
 - b. A crime that relates to the operation of a professional employer organization or the ability of the licensee or any officer or controlling person of the licensee to operate a professional employer organization;
 - c. A crime that relates to the classification, misclassification, or underreporting of employees required by State law;
 - d. A crime that relates to the establishment or maintenance of a self-insurance program, whether health insurance, workers' compensation insurance, or other insurance;
 - e. A crime that relates to fraud, deceit, or misconduct in the operation of a professional employer service; or
 - f. A crime that involves dishonesty or breach of trust.
- (2) Engaging in professional employer services or offering to engage in the provision of professional employer services without a license.
- (3) Failure to provide notice in writing of the discontinuance and replacement, if any, of any insurance coverage, to the Commissioner and client company within 10 business days of the discontinuance of any insurance coverage pursuant to G.S. 58-89-115.
- (4) Failure to provide the notice required by G.S. 58-50-40.
- (5) Failure to satisfy any of the requirements for licensure in this Article.

(b) For purposes of this section, a conviction includes an adjudication of guilt, a plea of guilty, and a plea of nolo contendere.

"§ 58-89-160. Sanctions.

(a) On a finding that a ground for disciplinary action exists under G.S. 58-89-155, the Commissioner may suspend or terminate a license, impose a civil penalty, and seek an order of restitution under G.S. 58-2-70.

(b) On termination of a license, the licensee shall immediately return the terminated license to the Commissioner.

(c) Any disciplinary action taken, any temporary or permanent termination of a license, or any determination that an officer or controlling person is unqualified shall be made by the Commissioner subject to Article 3A of Chapter 150B of the General Statutes.

"§ 58-89-165. Injunctions; civil remedies; cease and desist orders.

(a) In addition to the penalties and other enforcement provisions of this Article, if any person violates this Article or any rule implementing this Article, the Commissioner may seek an injunction in a court of competent jurisdiction and may apply for

temporary and permanent orders that the Commissioner determines are necessary to restrain the person from committing the violation.

(b) The Commissioner may issue, in accordance with G.S. 58-63-32, a cease and desist order upon a person that violates any provision of this Article, any rule or order adopted by the Commissioner, or any written agreement entered into with the Commissioner. The cease and desist order may be subject to judicial review under G.S. 58-63-35.

(c) When the Commissioner finds that an activity in violation of this Article presents an immediate danger to the public that requires an immediate final order, the Commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains effective for 90 days. If the Commissioner begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective, absent an order by a court of competent jurisdiction in accordance with G.S. 58-63-35.

(d) In addition to the penalties and other enforcement provisions of this Article, any person who violates this Article is subject to G.S. 58-2-70.

(e) The Commissioner is not required to post a bond for injunctive relief under this section.

"§ 58-89-170. Prohibited acts.

No person shall do any of the following:

- (1) Engage in or offer professional employer services without holding a license under this Article as a professional employer organization.
- (2) Use the name or title "staff leasing company", "employee leasing company", "licensed staff leasing company", "staff leasing services company", "professional employer organization", or "administrative employer" or otherwise represent that the person is licensed under this Article unless the person holds a license issued under this Article.
- (3) Represent as the person's own the license of another person or represent that a person is licensed if the person does not hold a license.
- (4) Give materially false or forged evidence to the Commissioner in connection with obtaining or maintaining a license or in connection with disciplinary proceedings under this Article.
- (5) Use or attempt to use a license that has been suspended or terminated.

"§ 58-89-175. Criminal penalty.

A person who violates G.S. 58-89-170 commits a Class H felony. Any officer or controlling person who willfully violates any provision of this Article may be subject to any and all criminal penalties available under State law.

"§ 58-89-180. Application to unlicensed professional employer organizations.

Notwithstanding any other provision of law, each provision in this Article applies to persons subject to licensure under this Article, whether licensed under this Article or not."

SECTION 2. The Department of Insurance shall report to the 2005 General Assembly on the implementation, administration, and enforcement of Article 89 of Chapter 58 of the General Statutes, as enacted in Section 1 of this act. In its report, the Department shall recommend any statutory changes required to regulate professional employer organizations and enforce Article 89 of Chapter 58 of the General Statutes.

SECTION 3. A person registered to engage in and offer professional employer services in this State, pursuant to G.S. 58-89-15, on the last day prior to the effective date of this act may continue to operate pending approval of the person's application for a license as long as the application is filed with the Commissioner no later than April 1, 2005. If the application for licensure is denied, the person shall cease offering professional employer services in this State. A person not registered to engage in and offer professional employer services in this State, pursuant to G.S. 58-89-15, on the last day prior to the effective date of this act shall not engage in or offer professional employer services in this State until the person has been issued a license under this act.

SECTION 4. 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 5. This act becomes effective January 1, 2005, and applies to any contracts entered into, any business conducted, and any actions taken on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:48 p.m. on the 2nd day of August, 2004.

S.B. 1210

Session Law 2004-163

AN ACT TO PROVIDE FOR THE TEMPORARY IMPLEMENTATION OF FEDERAL PHASE II STORMWATER MANAGEMENT REQUIREMENTS BY PROVIDING: (1) THAT LOCAL GOVERNMENT APPLICATIONS FOR PHASE II STORMWATER PERMITS THAT WERE SUBMITTED IN ACCORDANCE WITH THE TEMPORARY STORMWATER RULE WILL BE DEEMED TIMELY RECEIVED; (2) STANDARDS FOR THE EVALUATION OF APPLICATIONS FOR PHASE II STORMWATER PERMITS; (3) AN EXEMPTION FROM PHASE II STORMWATER PERMIT REQUIREMENTS FOR CERTAIN SMALL MUNICIPALITIES; (4) THAT NEW DEVELOPMENT AND REDEVELOPMENT LOCATED IN A REGULATED COVERAGE AREA MUST COMPLY WITH THE STORMWATER MANAGEMENT RULE; (5) THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION WILL ADMINISTER AND ENFORCE THE STORMWATER MANAGEMENT RULE IN A REGULATED COVERAGE AREA UNLESS A COUNTY VOLUNTARILY UNDERTAKES TO IMPLEMENT A LOCAL STORMWATER MANAGEMENT PROGRAM; (6) FOR THE COORDINATION OF PHASE II STORMWATER MANAGEMENT PROGRAMS AND OTHER EXISTING STATE PROGRAMS THAT REGULATE STORMWATER IN ORDER TO AVOID CONFLICTING, DUPLICATIVE, OR INCONSISTENT STORMWATER MANAGEMENT REQUIREMENTS; (7) THAT A LOCAL GOVERNMENT MAY OPT TO BE COVERED UNDER A GENERAL STORMWATER PERMIT DEVELOPED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION; (8) DEADLINES FOR WHEN THE ENVIRONMENTAL MANAGEMENT COMMISSION MUST MAKE CERTAIN PHASE II STORMWATER PERMITTING DECISIONS; (9) DESIGNATION AND PETITION PROCESSES BY WHICH ADDITIONAL LOCAL GOVERNMENTS AND OTHER ENTITIES MAY BE REQUIRED TO

OBTAIN A PHASE II STORMWATER PERMIT; (10) FOR THE DEVELOPMENT OF A STORMWATER MODEL ORDINANCE AND STORMWATER DESIGN MANUAL; (11) FOR THE ROLES OF STATE AND LOCAL GOVERNMENTS IN REGULATING THE STORMWATER IMPACTS OF FEDERAL AND STATE PROJECTS; (12) DEFINITIONS OF TERMS TO BE USED IN THE IMPLEMENTATION OF THIS ACT; (13) THAT CERTAIN AGRICULTURE AND FORESTRY ACTIVITIES ARE EXEMPT FROM PHASE II STORMWATER PERMIT REQUIREMENTS; AND (14) HOW THE ACT SHALL BE CONSTRUED, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Phase II Stormwater Permit Application and Standards. – An application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management submitted by an owner or operator of a small municipal separate storm sewer system (MS4) located in whole or in part within an urbanized area as designated by the 1990 or 2000 census by the Bureau of the Census shall be deemed timely received if the application was submitted to the Department in accordance with the application schedule set out in Section 6 of the temporary rule adopted by the Environmental Management Commission on 10 October 2002. To obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management under this section, an applicant shall develop, implement, and enforce a stormwater management plan approved by the Commission that satisfies the six minimum control measures required by 40 Code of Federal Regulations § 122.34(b) (1 July 2003 Edition). The evaluation of the postconstruction stormwater management measures required by 40 Code of Federal Regulations § 122.34(b)(5) (1 July 2003 Edition) shall be conducted as provided in the Stormwater Management Rule. A municipality with a population of less than 1,000, including a municipality designated by the 1990 or 2000 census, is not required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management unless the municipality is shown to be contributing to an impairment of State waters, as determined under the requirements of 33 U.S.C. § 1313(d).

SECTION 2. New Development and Redevelopment in Unincorporated Areas of Counties. –

- (1) New development or redevelopment located in the unincorporated area of a county shall comply with the standards set forth in the Stormwater Management Rule beginning 1 July 2006 if the new development or redevelopment is located in:
 - a. An area that is designated as an urbanized area under the 1990 or 2000 census by the Bureau of the Census.
 - b. The unincorporated area of a county outside of a municipality designated as an urbanized area under the 1990 or 2000 census by the Bureau of the Census that:
 1. Extends one mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals.
 2. Extends two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals.

3. Extends three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
 - c. An area delineated pursuant to subdivision (2) of this section.
 - d. A county in which the unduplicated sum of: (i) the area that is designated as an urbanized area under the 1990 or 2000 census by the Bureau of the Census; (ii) the area described in sub-subdivision b. of this subdivision; (iii) the area delineated pursuant to subdivision 2 of this section; (iv) the jurisdiction of a regulated entity designated pursuant to Section 7 of this act; and (v) the area that is regulated by a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management required pursuant to Section 8 of this act equals or exceeds eighty-five percent (85%) of the total geographic area of the county.
- (2) Delineation process. – The Commission shall delineate regulated coverage areas as provided in this subdivision.
- a. Schedule. – The Commission shall implement the delineation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).
 - b. Potential candidate coverage areas. – A potential candidate coverage area is the unincorporated area of a county that is outside a municipality designated as a regulated entity pursuant to subdivisions (2) and (3) of Section 7 of this act that:
 1. Extends one mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals.
 2. Extends two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals.
 3. Extends three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
 - c. Identification of candidate coverage areas. – The Commission shall identify an area within a potential candidate coverage area described in sub-subdivision b. of this subdivision as a candidate coverage area if the discharge of stormwater within or from the unincorporated area has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that violates water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.
 - d. Notice and comment on candidacy. – The Commission shall notify each public entity that is located in whole or in part in a candidate coverage area. After notification of each public entity, the Commission shall publish a map of the unincorporated areas within the river basin that have been

- identified as candidates for delineation as regulated coverage areas. The Commission shall accept public comment on the proposed delineation of a candidate coverage area as a regulated coverage area for a period of not less than 30 days.
- e. Delineation of regulated coverage areas. – After review of public comment, the Commission shall delineate regulated coverage areas. The Commission shall delineate a candidate coverage area as a regulated coverage area only if the Commission determines that the discharge of stormwater within or from the candidate coverage area either:
 1. Adversely impacts water quality.
 2. Results in a significant contribution of pollutants to sensitive receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).
 - f. Notice of delineation. – The Commission shall provide written notice to each public entity that is located in whole or in part in a candidate coverage area of its delineation determination. The notice shall state the basis for the determination.
- (3) Except as provided in this subdivision and Section 5 of this act, the Commission shall administer and enforce the standards for new development and redevelopment in the regulated coverage areas. To the extent that the new development or redevelopment is located in a municipal planning jurisdiction, the municipality shall administer and enforce the standards. A public entity may request that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in Section 5 of this act.

SECTION 3. Coordination of Phase II and Other Stormwater Management Programs. – In any circumstance where any stormwater control requirement under a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management conflicts or overlaps with any stormwater control requirement under any other water quality program, the most stringent requirement shall apply. The Secretary of Environment and Natural Resources or the Secretary's designee shall resolve any dispute as to whether there is a conflict or overlap between or among stormwater management requirements and shall determine which requirement shall be deemed the most stringent.

SECTION 4. General Permit. – The Commission shall develop and issue a Phase II National Pollutant Discharge Elimination System (NPDES) general permit for stormwater management. The general permit requirements for postconstruction stormwater management measures required by 40 Code of Federal Regulations §

122.34(b)(5) (1 July 2003 Edition) shall require a permittee to meet the standards set out in the Stormwater Management Rule but shall not impose any requirement on the permittee that exceeds the standards set out in the Stormwater Management Rule. After the Commission has issued a Phase II National Pollutant Discharge Elimination System (NPDES) general permit for stormwater management, a public entity that has applied for a permit under Section 1 of this act may submit a notice of intent to be covered under the general permit to the Commission. The Commission shall treat an application for a permit under Section 1 of this act as an application for an individual permit unless the applicant submits a notice of intent to be covered under a general permit under this section.

SECTION 5. Delegation. – A public entity that does not administer a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management throughout the entirety of its planning jurisdiction and whose planning jurisdiction includes a regulated coverage area under Section 2 of this act may submit a stormwater management program for its regulated coverage area or a portion of its regulated coverage area to the Commission for approval pursuant to G.S. 143-214.7(c). An ordinance or regulation adopted by a public entity shall at least meet and may exceed the minimum requirements of this act and the six minimum control measures required by 40 Code of Federal Regulations § 122.34(b) (1 July 2003 Edition). Two or more public entities are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolution, memorandum of agreement, or other document that establishes any joint program must be duly recorded in the minutes of the governing body of each public entity participating in the program, and a certified copy of each resolution must be filed with the Commission. The Commission shall review each proposed program submitted to it to determine whether the submission is complete. Within 90 days after the receipt of a complete submission, the Commission shall notify the public entity submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of this act and the six minimum control measures required by 40 Code of Federal Regulations § 122.34(b) (1 July 2003 Edition). If the Commission determines that any public entity is failing to administer or enforce an approved stormwater management program, it shall notify the public entity in writing and shall specify the deficiencies of administration and enforcement. If the public entity has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the public entity indicates its willingness and ability to resume administration and enforcement of the program.

SECTION 6. Phase II Stormwater Implementation Deadlines. –

- (1) For an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management submitted by an owner or operator of a small municipal separate storm sewer system (MS4) located in whole or in part within an urbanized area as designated by the 1990 census by the Bureau of the Census, the Commission shall send a draft permit decision to public notice by 1 November 2004.
- (2) For an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management

submitted by an owner or operator of a small municipal separate storm sewer system (MS4) located in whole or in part within an urbanized area as designated by the 2000 census by the Bureau of the Census, the Commission shall send a draft permit decision to public notice by 1 May 2005.

- (3) A public entity designated as a regulated entity pursuant to 40 Code of Federal Regulations § 122.32 (1 July 2003 Edition) shall develop and implement postconstruction stormwater management measures within 24 months of the date on which its Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management is issued.
- (4) A public entity designated as a regulated entity pursuant to subdivisions (2) and (3) of Section 7 of this act shall develop and implement postconstruction stormwater management measures within 36 months of the date on which its Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management is issued.

SECTION 7. Designation of Regulated Entities. – A public entity that owns or operates a municipal separate storm sewer system (MS4) may be designated as a regulated entity through federal designation, through a State designation process, or under a total maximum daily load (TMDL) implementation plan as provided in this section.

- (1) Federal designation. – A public entity that owns or operates a municipal separate storm sewer system (MS4) may be designated as a regulated entity pursuant to 40 Code of Federal Regulations § 122.32 (1 July 2003 Edition).
- (2) State designation process. – The Commission shall designate a public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated entity as provided in this subdivision.
 - a. Designation schedule. – The Commission shall implement the designation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).
 - b. Identification of candidate regulated entities. – The Commission shall identify a public entity as a candidate for designation as a regulated entity if the municipal separate storm sewer system (MS4) either:
 1. Discharges stormwater that has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that violates water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.
 2. Serves a public entity that has not been designated pursuant to subdivision (1) of this section and that has a population of more than 10,000 and a population density of 1,000 people per square mile or more.
 - c. Notice and comment on candidacy. – The Commission shall notify each public entity identified as a candidate for

- designation as a regulated entity. After notification of each public entity, the Commission shall publish a list of all public entities within a river basin that have been identified as candidates for designation. The Commission shall accept public comment on the proposed designation of a public entity as a regulated entity for a period of not less than 30 days.
- d. Designation of regulated entities. – After review of the public comment, the Commission shall make a determination on designation for each of the candidate public entities. The Commission shall designate a candidate public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated public entity only if the Commission determines either that:
1. The public entity has an actual population growth rate that exceeds 1.3 times the State population growth rate for the previous 10 years.
 2. The public entity has a projected population growth rate that exceeds 1.3 times the projected State population growth rate for the next 10 years.
 3. The public entity has an actual population increase that exceeds fifteen percent (15%) of its previous population for the previous two years.
 4. The municipal separate storm sewer system (MS4) discharges stormwater that adversely impacts water quality.
 5. The municipal separate storm sewer system (MS4) either discharges stormwater that results in a significant contribution of pollutants to sensitive receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).
- e. Notice of designation. – The Commission shall provide written notice to each public entity of its designation determination. For a public entity designated as a regulated entity, the notice shall state the basis for the designation and the date on which an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management must be submitted to the Commission.
- f. Application schedule. – A public entity that has been designated as a regulated entity pursuant to this subdivision must submit its application for a Phase II National Pollutant Discharge

Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.

- (3) Designation under a total maximum daily load (TMDL) implementation plan. – The Commission shall designate an owner or operator of a small municipal separate storm sewer system (MS4) as a regulated entity if the municipal separate storm sewer system (MS4) is specifically listed by name as a source of pollutants for urban stormwater in a total maximum daily load (TMDL) implementation plan developed in accordance with subsections (d) and (e) of 33 U.S.C. § 1313. The Commission shall provide written notice to each public entity of its designation determination. For a public entity designated as a regulated entity, the notice shall state the basis for the designation and the date on which an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management must be submitted to the Commission. A public entity that has been designated as a regulated entity pursuant to this subdivision must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.

SECTION 8. Petition Process. – A petition may be submitted to the Commission to request that an owner or operator of a municipal separate storm sewer system (MS4) or a person who discharges stormwater be required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management as follows:

- (1) Connected discharge petition. – An owner or operator of a permitted municipal separate storm sewer system (MS4) may submit a petition to the Commission to request that a person who discharges into the permitted municipal separate storm sewer system (MS4) be required to obtain a separate Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management. The Commission shall grant the petition and require the person to obtain a separate Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management if the petitioner shows that the person's discharge flows or will flow into the permitted municipal separate storm sewer system (MS4).
- (2) Adverse impact petition. – Any person may submit a petition to the Commission to request that an owner or operator of a municipal separate storm sewer system (MS4) or a person who discharges stormwater be required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management.
 - a. Petition review. – The Commission shall grant the petition and require the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management if the petitioner shows any of the following:
 1. The municipal separate storm sewer system (MS4) or the discharge discharges or has the potential to discharge

- stormwater to sensitive receiving waters in an area with:
- (i) an actual population growth rate that exceeds 1.3 times the State population growth rate for the previous 10 years; (ii) a projected population growth rate that exceeds 1.3 times the projected State population growth rate for the next 10 years; or (iii) an actual population increase that exceeds fifteen percent (15%) of its previous population for the previous two years.
2. The municipal separate storm sewer system (MS4) or the discharge provides a significant contribution of pollutants to sensitive receiving waters.
 3. The municipal separate storm sewer system (MS4) or the discharge is specifically listed by name as a source of pollutants for urban stormwater in a total maximum daily load (TMDL) implementation plan developed in accordance with subsections (d) and (e) of 33 U.S.C. § 1313.
- b. Types of evidence for required showing. – Petitioners may make the required showing by providing to the Commission the following information:
1. Monitoring data that includes, at a minimum, representative sampling of the municipal separate storm sewer system (MS4) or discharge and information describing how the sampling is representative. The petitioner must notify the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater of its intent to conduct monitoring activities prior to conducting those activities.
 2. Scientific or technical literature that supports the sampling methods.
 3. Study and technical information on land uses in the drainage area and the characteristics of stormwater runoff from these land uses.
 4. A map that delineates the drainage area of the petitioned entity; the location of sampling stations; the location of the stormwater outfalls in the adjacent area of the sampling locations; general features, including, but not limited to, surface waters, major roads, and political boundaries; and areas of concern regarding water quality.
 5. For stormwater discharges to impaired waters, documentation that the receiving waters are impaired or degraded and monitoring data that demonstrates that the municipal separate storm sewer system (MS4) or discharge contributes pollutants for which the waters are impaired or degraded.
 6. For stormwater discharges to nonimpaired waters, monitoring data that demonstrates that the owner or

- operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater is a significant contributor of pollutants to the receiving waters.
- c. Water quality protection program offset. – If the petitioner makes the required showing, the Commission shall review the effectiveness of any existing water quality protection programs that may offset the need to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications). The Commission may deny the petition if it finds that existing water quality protection programs are adequate to address stormwater impacts on sensitive receiving waters and to insure compliance with a TMDL implementation plan.
- (3) Petition administration. – The Commission shall process petitions in the following manner:
- a. The Commission shall only accept petitions submitted on Department forms.
 - b. A separate petition must be filed for each municipal separate storm sewer system (MS4) or discharge.
 - c. The Commission shall evaluate only complete petitions. The Commission shall make a determination on the completeness of a petition within 90 days of receipt of the petition, or it shall be deemed complete. If the Commission requests additional information, the petitioner may submit additional information; and the Commission will determine, within 90 days of receipt of the additional information, whether the information completes the petition.
 - d. The petitioner shall provide a copy of the petition and a copy of any subsequent additional information submitted to the Commission to the chief administrative officer of the municipal separate storm sewer system (MS4) or the person in control of the discharge within 48 hours of each submittal.
 - e. The Commission shall post all petitions on the Division Web site and maintain copies available for inspection at the Division's office. The Commission shall accept and consider public comment for at least 30 days from the date of posting.
 - f. The Commission may hold a public hearing on a petition and shall hold a public hearing on a petition if it receives a written request for a public hearing within the public comment period, and the Commission determines that there is a significant public interest in holding a public hearing. The Commission's

determination to hold a public hearing shall be made no less than 15 days after the close of the public comment period. The Commission shall schedule the hearing to be held within 45 days of the close of the initial public comment period and shall accept and consider additional public comment through the date of the hearing.

- g. An additional petition for the same municipal separate storm sewer system (MS4) or discharge received during the public comment period shall be considered as comment on the original petition. An additional petition for the same municipal separate storm sewer system (MS4) or discharge received after the public comment period ends and before the final determination is made shall be considered incomplete and held pending a final determination on the original petition.
 - 1. If the Commission determines that the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater is required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management, any petitions for that municipal separate storm sewer system (MS4) or discharge that were held shall be considered in the development of the Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management.
 - 2. If the Commission determines that the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater is not required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management, an additional petition for the municipal separate storm sewer system (MS4) or discharge must present new information or demonstrate that conditions have changed in order to be considered. If new information is not provided, the petition shall be returned as substantially incomplete.
- h. The Commission shall evaluate a petition within 180 days of the date on which it is determined to be complete. If the Commission determines that the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater is required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management, the Commission shall notify the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater within 30 days of the requirement to obtain the permit. The owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater

management within 18 months of the date of notification. If the owner or operator of a municipal separate storm sewer system is a municipality with a population of less than 5,000, the municipality must submit an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 24 months of the date of notification.

SECTION 9. Model Ordinance. – Pursuant to G.S. 143-214.7(c), the Environmental Management Commission shall develop a model ordinance in cooperation with local governments and other interested parties that shall allow the use of both structural and nonstructural best management practices adequate to meet the standards. The model ordinance shall be completed by 1 July 2005. In the development of the model ordinance, the Commission shall provide for options that take into consideration differences among local governments in the State, including, but not limited to, population, financial resources, and human resources.

SECTION 10. Design Manual. – Consistent with G.S. 150B-2(8a)h., the Division, in consultation with the Division of Land Resources of the Department, the Division of Soil and Water Conservation of the Department, and North Carolina State University, shall develop or revise a design manual to provide assistance in determining which controls are best suited to the unique characteristics of the permittee, including, but not limited to, hydrology, topography, climate, soils, and receiving waters. The development or revision of the design manual shall be completed by 1 July 2005.

SECTION 11. Federal and State Development or Redevelopment Projects. – A federal or State agency may apply to the Commission for a Phase I or Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management that applies to all of the activities of the agency or that applies to a particular development or redevelopment project. The Commission shall have exclusive jurisdiction to establish stormwater management requirements with respect to a particular project that is not under the jurisdiction of a federal or State agency that holds a Phase I or Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management that applies to all of the activities of the agency or that applies to the particular development or redevelopment project. If a federal or State agency does not hold a Phase I or Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management that applies to the particular development or redevelopment project, then the project is subject to the stormwater management requirements of this act as implemented by the Commission or by a local government. The provisions of G.S. 153A-347 and G.S. 160A-392 apply to the implementation of this act.

SECTION 12. Definitions. – The following definitions apply to this act and its implementation:

- (1) The definitions set out in 40 Code of Federal Regulations § 122.2 (Definitions) and § 122.26(b) (Storm Water Discharges) (1 July 2003 Edition).
- (2) The definitions set out in G.S. 143-212 and G.S. 143-213.
- (3) The definitions set out in 15A NCAC 2H .0103 (Definitions of Terms).
- (4) "1-year, 24-hour storm" means the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

- (5) "Built-upon area" means that portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.
- (6) "Division" means the Division of Water Quality in the Department.
- (7) "Planning jurisdiction" means the territorial jurisdiction within which a municipality exercises the powers authorized by Article 19 of Chapter 160A of the General Statutes, or a county may exercise the powers authorized by Article 18 of Chapter 153A of the General Statutes.
- (8) "Public entity" means the United States; the State; a city, village, township, county, school district, public college or university, or single-purpose governmental agency; or any other governing body that is created by federal or State law.
- (9) "Redevelopment" means any rebuilding activity other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.
- (10) "Regulated coverage area" means an unincorporated area of a county to which the Stormwater Management Rule applies.
- (11) "Regulated entity" means any public entity that must obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management for its municipal separate storm sewer system (MS4).
- (12) "Sensitive receiving waters" means any of the following:
 - a. Waters that are classified as high quality, outstanding resource, shellfish, trout, or nutrient-sensitive waters in accordance with subsections (d) and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures).
 - b. Waters that are occupied by or designated as critical habitat for aquatic animal species that are listed as threatened or endangered by the United States Fish and Wildlife Service or the National Marine Fisheries Service under the provisions of the Endangered Species Act of 1973 (Pub. L. No. 93-205; 87 Stat. 884; 16 U.S.C. §§ 1531, et seq.), as amended.
 - c. Waters for which the designated use, as described by the classification system set out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures), have been determined to be impaired in accordance with the requirements of subsection (d) of 33 U.S.C. § 1313.
- (13) "Significant contributor of pollutants" means a municipal separate storm sewer system (MS4) or a discharge that contributes to the pollutant loading of a water body or that destabilizes the physical structure of a water body such that the contribution to pollutant loading or the destabilization may reasonably be expected to adversely affect

the quality and uses of the water body. Uses of a water body shall be determined pursuant to 15A NCAC 2B .0211 through 15A NCAC 2B .0222 (Classifications and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina) and 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).

- (14) "Stormwater Management Rule" means Section 10 of the temporary rule adopted by the Environmental Management Commission on 10 October 2002, except that:
- a. In subsection (a), the words "pursuant to Sub-Item (7)(a)(v) of this Rule." are deleted and replaced by the words "set out in 40 Code of Federal Regulations § 122.34(b)(5) (1 July 2003 Edition).".
 - b. Subsections (c) and (d) are deleted.
 - c. In the first sentence of subsection (e), the words "meets the following requirements:" is deleted and replaced by the words "manages stormwater and protects water quality. The program shall equal or exceed the stormwater management and water quality protection provided by the following model practices:".
 - d. In subdivision (i) of subsection (e), the words "Sub-Item (10)(B)" are deleted and replaced by the words "Sub-Item (10)(b)".
 - e. In subdivision (i) of subsection (h), the words "while still meeting the requirements of Sub-Item (10)(d) of this Rule" are deleted.
 - f. In subsection (i), the words "temperature, while still meeting the requirements of Sub-Item (10)(d) of this Rule." are deleted and replaced by the word "temperature.".
 - g. In subdivision (i) of subsection (j), the words "while still meeting the requirements of Sub-Item (10)(d) of this Rule" are deleted.
 - h. In subsection (k), the words "of Item (10)" are deleted.
 - i. A new subsection (n) is added to read:
 "(n) A regulated entity may develop its own comprehensive watershed plan, may use the model ordinance developed by the Commission, may design its own postconstruction practices based on the Department's guidance and engineering standards for best management practices (BMPs), or it may incorporate the postconstruction model practices set out in this rule to fulfill the minimum requirements set out in 40 Code of Federal Regulations § 122.34(b)(5) (1 July 2003 Edition).".
- (15) "Total maximum daily load (TMDL) implementation plan" means a written, quantitative plan and analysis for attaining and maintaining water quality standards in all seasons for a specific water body and pollutant.

SECTION 13. Construction of Act. –

- (1) Nothing in this act shall be construed to limit, expand, or otherwise alter the authority of the Environmental Management Commission or

any unit of local government to adopt stormwater management requirements that exceed the requirements of this act.

- (2) This act shall not be construed to affect pending litigation.
- (3) Except as specifically provided in this act, this act shall not be construed to give effect to any temporary or permanent rule related to Phase II stormwater management that has not become effective as provided in G.S. 150B-21.3.
- (4) The exclusions from the requirement to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit set out in 40 Code of Federal Regulations § 122.3 (1 July 2003 Edition), including the exclusions for certain nonpoint source agricultural and silvicultural activities, apply to the provisions of this act.
- (5) This act shall not be construed to affect any vested right to development under any provision of statutory or common law. To the extent that postconstruction measures are implemented by a zoning ordinance, vested rights shall be determined as provided in G.S. 160A-385.1, G.S. 153A-344.1, and other applicable provisions of statutory and common law. To the extent that postconstruction measures are implemented by means other than a zoning ordinance, vested rights shall be determined as provided by applicable statutory and common law. The Commission, the Department, local governments, and other public entities shall implement this act in compliance with the applicable vested rights provisions of statutory and common law.
- (6) This act shall not be construed to affect any delegation of any power or duty by the Commission to the Department or subunit of the Department.

SECTION 14. Notwithstanding G.S. 164-10, the Revisor of Statutes shall not codify any of the provisions of this act. The Revisor of Statutes shall set out the text of Sections 1 through 13 of this act as a note to G.S. 143-214.7 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate. The Revisor of Statutes shall set out the text of the Stormwater Management Rule, as defined in Section 11 of this act, and the text of Section 6 of the temporary rule adopted by the Environmental Management Commission on 10 October 2002 as notes to G.S. 143-214.7.

SECTION 15. This act is effective when it becomes law and expires 1 October 2011.

In the General Assembly read three times and ratified this the 12th day of July, 2004.

Became law upon approval of the Governor at 4:49 p.m. on the 2nd day of August, 2004.

H.B. 1723

Session Law 2004-164

AN ACT TO AUTHORIZE EXISTING CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the time limitations contained in G.S. 135-5.3 and G.S. 135-40.3A, the boards of directors of (i) New Century High School in Saxapahaw; (ii) Lake Norman Charter School in Huntersville; (iii) Exploris Middle School in Raleigh, a charter school division of Exploris; (iv) Magellan Charter School in Raleigh; (v) American Renaissance Charter School in Statesville; and (vi) Healthy Start Academy in Durham may elect to become participating employers 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 participating employing units 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. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:49 p.m. on the 2nd day of August, 2004.

S.B. 916

Session Law 2004-165

AN ACT TO ESTABLISH CIVIL NO-CONTACT ORDERS FOR THE PROTECTION OF EMPLOYEES FROM WORKPLACE VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 95 of the General Statutes is amended by adding a new Article to read:

"Article 23.

"Workplace Violence Prevention.

"§ 95-260. Definitions.

The following definitions apply in this Article:

- (1) Civil no-contact order. – An order granted under this Article, which includes a remedy authorized by G.S. 95-264.
- (2) Employer. – Any person or entity that employs one or more employees. Employer also includes the State of North Carolina and its political subdivisions.
- (3) Unlawful conduct. – Unlawful conduct means the commission of one or more of the following acts upon an employee, but does not include acts of self-defense or defense of others:
 - a. Attempting to cause bodily injury or intentionally causing bodily injury.
 - b. Willfully, and on more than one occasion, following, being in the presence of, or otherwise harassing, as defined in G.S. 14-277.3, without legal purpose and with the intent to place the employee in reasonable fear for the employee's safety.
 - c. Willfully threatening, orally, in writing, or by any other means, to physically injure the employee in a manner and under circumstances that would cause a reasonable person to believe

that the threat is likely to be carried out and that actually causes the employee to believe that the threat will be carried out.

"§ 95-261. Civil no-contact orders; persons protected.

An action for a civil no-contact order may be filed as a civil action in district court by an employer on behalf of an employee who has suffered unlawful conduct from any individual that can reasonably be construed to be carried out, or to have been carried out, at the employee's workplace. The employee that is the subject of unlawful conduct shall be consulted prior to seeking an injunction under this Article in order to determine whether any safety concerns exist in relation to the employee's participation in the process. Employees who are targets of unlawful conduct who are unwilling to participate in the process under this Article shall not face disciplinary action based on their level of participation or cooperation.

"§ 95-262. Commencement of action; venue.

(a) An action for a civil no-contact order is commenced by filing a verified complaint for a civil no-contact order in any civil district court or by filing a motion in any existing civil action.

(b) A complaint or motion for a civil no-contact order shall be filed in the county where the unlawful conduct took place.

"§ 95-263. Process for action for no-contact order.

(a) Any action for a civil no-contact order requires that a separate summons be issued and served. The summons issued pursuant to this Article shall require the respondent to answer within 10 days of the date of service. Attachments to the summons shall include the verified complaint for the civil no-contact order and any temporary civil no-contact order that has been issued and the notice of hearing on the temporary civil no-contact order.

(b) Service of the summons and attachments shall be by the sheriff by personal delivery in accordance with Rule 4 of the Rules of Civil Procedure, and if the respondent cannot with due diligence be served by the sheriff by personal delivery, the respondent may be served by publication by the complainant in accordance with Rule 4(j1) of the Rules of Civil Procedure.

(c) The court may enter a civil no-contact order by default for the remedy sought in the complaint if the respondent has been served in accordance with this section and fails to answer as directed, or fails to appear on any subsequent appearance or hearing date agreed to by the parties or set by the court.

"§ 95-264. Civil no-contact order; remedy.

(a) Upon a finding that the employee has suffered unlawful conduct committed by the respondent, the court may issue a temporary or permanent civil no-contact order. In determining whether or not to issue a civil no-contact order, the court shall not require physical injury to the employee or injury to the employer's property.

(b) The court may grant one or more of the following forms of relief in its orders under this Article:

- (1) Order the respondent not to visit, assault, molest, or otherwise interfere with the employer or the employer's employee at the employer's workplace, or otherwise interfere with the employer's operations.
- (2) Order the respondent to cease stalking the employer's employee at the employer's workplace.
- (3) Order the respondent to cease harassment of the employer or the employer's employee at the employer's workplace.

- (4) Order the respondent not to abuse or injure the employer, including the employer's property, or the employer's employee at the employer's workplace.
- (5) Order the respondent not to contact by telephone, written communication, or electronic means the employer or the employer's employee at the employer's workplace.
- (6) Order other relief deemed necessary and appropriate by the court.

(c) A civil no-contact order shall include the following notice, printed in conspicuous type: 'A knowing violation of a civil no-contact order shall be punishable as contempt of court which may result in a fine or imprisonment.'

"§ 95-265. Temporary civil no-contact order; court holidays and evenings.

(a) A temporary civil no-contact order may be granted ex parte, without written or oral notice to the respondent, only if both of the following are shown:

- (1) It clearly appears from specific facts shown by a verified complaint or affidavit that immediate injury, loss, or damage will result to the complainant, or the complainant's employee before the respondent can be heard in opposition.
- (2) Either one of the following:
 - a. The complainant certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required.
 - b. The complainant certified to the court that there is good cause to grant the remedy because the harm that the remedy is intended to prevent would like occur if the respondent were given any prior notice of the complainant's efforts to obtain judicial relief.

(b) Every temporary civil no-contact order granted without notice shall:

- (1) Be endorsed with the date and hour of issuance.
- (2) Be filed immediately in the clerk's office and entered of record.
- (3) Define the injury, state why it is irreparable and why the order was granted without notice.
- (4) Expire by its terms within such time after entry, not to exceed 10 days.
- (5) Give notice of the date of hearing on the temporary order as provided in G.S. 95-267(a).

(c) If the respondent appears in court for the hearing for a temporary order, the respondent may elect to file a general appearance and testify. Any resulting order may be a temporary order, governed by this section. Notwithstanding the requirements of this section, if all requirements of G.S. 95-266 have been met, the court may issue a permanent order.

(d) When the court is not in session, the complainant may file a complaint for a temporary order before any judge or magistrate designated to grant relief under this Article. If the judge or magistrate finds that there is an immediate and present danger of abuse against the complainant or employee of the complainant and that the complainant has satisfied the prerequisites set forth in subsection (a) of this section, the judge or magistrate may issue a temporary civil no-contact order. The chief district court judge may designate for each county at least one judge or magistrate to be reasonably available to issue temporary civil no-contact orders when the court is not in session.

"§ 95-266. Permanent civil no-contact order.

Upon a finding that the employee has suffered unlawful conduct committed by the respondent, a permanent civil no-contact order may issue if the court additionally finds that process was properly served on the respondent, the respondent has answered the complaint and notice of hearing was given, or the respondent is in default. No permanent civil no-contact order shall be issued without notice to the respondent.

"§ 95-267. Duration; extension of orders.

(a) A temporary civil no-contact order shall be effective for not more than 10 days as the court fixes, unless within the time so fixed the temporary civil no-contact order, for good cause shown, is extended for a like period or a longer period if the respondent consents. The reasons for the extension shall be stated in the temporary order. In case a temporary civil no-contact order is granted without notice and a motion for a permanent civil no-contact order is made, it shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. When the motion for a permanent civil no-contact order comes on for hearing, the complainant may proceed with a motion for a permanent civil no-contact order, and, if the complainant fails to do so, the judge shall dissolve the temporary civil no-contact order. On two days' notice to the complainant or on such shorter notice to that party as the judge may prescribe, the respondent may appear and move its dissolution or modification. In that event the judge shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(b) A permanent civil no-contact order shall be effective for a fixed period of time not to exceed one year.

(c) Any temporary or permanent order may be extended one or more times, as required, provided that the requirements of G.S. 95-265 or G.S. 95-266, as appropriate, are satisfied. The court may renew a temporary or permanent order, including an order that previously has been renewed, upon a motion by the complainant filed before the expiration of the current order. The court may renew the order for good cause. The commission of an act of unlawful conduct by the respondent after entry of the current order is not required for an order to be renewed. If the motion for extension is uncontested and the complainant seeks no modification of the order, the order may be extended if the complainant's motion or affidavit states that there has been no material change in relevant circumstances since entry of the order and states the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of G.S. 95-265(d).

(d) Any civil no-contact order expiring on a court holiday shall expire at the close of the next court business day.

"§ 95-268. Notice of orders.

(a) The clerk of court shall deliver on the same day that a civil no-contact order is issued a certified copy of that order to the sheriff.

(b) Unless the respondent was present in court when the order was issued, the sheriff shall serve that order upon the respondent and file proof of service in the manner provided for service of process in civil proceedings. If process has not yet been served upon the respondent, it shall be served with the order.

(c) A copy of the order shall be issued promptly to and retained by the police department of the municipality of the employer's workplace. If the employer's workplace is not located in a municipality or in a municipality 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 employer's workplace is located.

(d) Any order extending, modifying, or revoking any civil no-contact order shall be recorded, issued, and served in accordance with the provisions of this Article.

"§ 95-269. Violation of valid order.

A violation of an order entered pursuant to this Article is punishable as contempt of court.

"§ 95-270. Employment discrimination unlawful.

(a) No employer shall discharge, demote, deny a promotion, or discipline an employee because the employee took reasonable time off from work to obtain or attempt to obtain relief under Chapter 50B or Chapter 50C. An employee who is absent from the workplace shall follow the employer's usual time-off policy or procedure, including advance notice to the employer, when required by the employer's usual procedures, unless an emergency prevents the employee from doing so. An employer may require documentation of any emergency that prevented the employee from complying in advance with the employer's usual time-off policy or procedure, or any other information available to the employee which supports the employee's reason for being absent from the workplace.

(b) The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to the Article.

"§ 95-271. Scope of Article; other remedies available.

This Article does not expand, diminish, alter, or modify the duty of any employer to provide a safe workplace for employees and other persons. This Article does not limit the ability of an employer, employee, or victim to pursue any other civil or criminal remedy provided by law. This Article does not apply in circumstances where an employee or representative of employees is engaged in union organizing, union activity, a labor dispute, or any activity or action protected by the National Labor Relations Act, 29 U.S.C. § 151, et seq. Nothing in this Article is intended to change the National Labor Relations Act's preemptive regulation of legally protected activities, nor to change the right of the State and its courts to regulate activities not protected by the National Labor Relations Act."

SECTION 2. This act becomes effective December 1, 2004, and applies to actions that give rise to civil no-contact orders issued under this act on or after that date.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 4:51 p.m. on the 2nd day of August, 2004.

H.B. 1107

Session Law 2004-166

AN ACT TO CLARIFY THE CIVIL LIABILITY AND INCREASE THE CRIMINAL PENALTY FOR PERSONS WHO REPRESENT UNAUTHORIZED INSURERS AND TO PROVIDE THAT SUCH ACTIVITY IS GROUNDS FOR REVOCATION OF THE LICENSE OF THE INSURANCE AGENT OR BROKER; AND TO LIMIT DIRECT PROCUREMENT OF INSURANCE ONLY THROUGH ELIGIBLE SURPLUS LINES INSURERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-95 reads as rewritten:

"§ 58-33-95. Agents personally liable; representing unlicensed company prohibited; penalty.

(a) ~~Any person representing an insurer is personally liable on all contracts of insurance unlawfully made by or through him, directly or indirectly, for any company not authorized to do business in the State. A person or citizen of the State who fills up or signs any open policy, certificate, blank or coupon of, or furnished by, an unlicensed company, agent, broker or limited representative, the effect of which is to bind any insurance in an unlicensed company on property in this State, is the representative of such company, and personally liable for all licenses and taxes due on account of such transaction. If any person shall unlawfully solicit, negotiate for, collect or transmit a premium for a contract of insurance or act in any way in the negotiation or transaction of any unlawful insurance with an insurance company not licensed to do an insurance business in North Carolina, he shall be guilty of a Class 1 misdemeanor. or entity who solicits, negotiates, or sells insurance in this State for an unauthorized insurer:~~

- (1) Is the representative of that insurer and shall be strictly liable for any losses or unpaid claims if an unauthorized insurer fails to pay in full or in part any claim or loss within the provisions of any insurance contract sold, directly or indirectly, by or through that person or entity on behalf of the unauthorized insurer.
- (2) Shall be guilty of a Class 1 misdemeanor if the person or entity does not know that the insurer is an unauthorized insurer. Each solicitation, negotiation, or sale shall constitute a separate offense.
- (3) Shall be guilty of a Class H felony if the person or entity knew or should have known that the insurer is an unauthorized insurer. Each solicitation, negotiation, or sale shall constitute a separate offense.

(b) A civil action may be filed or a license revocation proceeding may be initiated under this section regardless of whether a criminal action is brought or a criminal conviction is obtained for the act alleged in the civil action or revocation proceeding.

(c) As used in this section, the terms "negotiate", "sell", and "solicit" shall have the meanings set forth in G.S. 58-33-10. As used in this section, the status of an entity or person as an "unauthorized insurer" shall be determined in accordance with Article 28 of this Chapter and, if applicable, Article 49 of this Chapter."

SECTION 2. G.S. 58-33-46(a) is amended by adding a new subdivision to read:

"(12a) Soliciting, negotiating, or selling insurance in this State for an unauthorized insurer, regardless of whether the licensee or applicant knew that the insurer was unauthorized. As used in this section, the terms "soliciting", "negotiating", and "selling" shall have the meaning of "solicit", "negotiate", and "sell", respectively, set forth in G.S. 58-33-10."

SECTION 3. G.S. 58-28-45(h) reads as rewritten:

"(h) ~~Any~~ Except as provided in G.S. 58-33-95, any person, corporation, association or partnership violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor and shall only be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000)."

SECTION 4. G.S. 58-28-5(b) reads as rewritten:

"(b) Any person in this State may directly procure or directly renew insurance with an ~~unlicensed insurer~~ eligible surplus lines insurer, as defined in G.S. 58-21-10(3),

without the involvement of an agent, broker, or surplus lines licensee, on a risk located or to be performed, in whole or in part, in this State. The person shall, within 30 days after the date the insurance is procured or renewed, file a written report with the Commissioner on forms prescribed by the Commissioner. The report must contain the name and address of the insured; name and address of the insurer; the subject of insurance; a general description of the coverage; the amount of premium currently charged; and any additional information requested by the Commissioner. The report must also contain an affidavit of the insured that states that the full amount or kind of insurance cannot be obtained from insurers that are ~~admitted~~-licensed to do business in this State; and that the insured has made a diligent search among the insurers that are ~~admitted~~-licensed to transact and are actually writing the particular kind and class of insurance in this State. Gross premiums charged for the insurance, less any return premiums, are subject to a tax at the rate of five percent (5%). At the time of filing the report required by this subsection, the insured shall pay the tax to the Commissioner. The Commissioner has the powers specified in G.S. 58-21-90 with respect to the tax levied by this subsection."

SECTION 5. This act becomes effective December 1, 2004, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:51 p.m. on the 2nd day of August, 2004.

S.B. 1083

Session Law 2004-167

AN ACT TO PROVIDE FOR STAGGERED ISSUANCE OF COMMERCIAL LICENSE PLATES, DEALER LICENSE PLATES, AND MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSES, AND TO EXEMPT HISTORIC VEHICLES FROM THE REQUIREMENT FOR A SAFETY INSPECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-64(a) reads as rewritten:

"(a) Except as otherwise provided in this Article, registration plates shall be retained by the owner thereof upon disposition of the vehicle to which assigned, and may be assigned to another vehicle, belonging to such owner and of a like vehicle category within the meaning of G.S. 20-87 and 20-88, upon proper application to the Division and payment of a transfer fee and such additional fees as may be due because the vehicle to which the plates are to be assigned requires a greater registration fee than that vehicle to which the license plates were last assigned. In cases where the plate is assigned to another vehicle belonging to such owner, and is not of a like vehicle category within the meaning of G.S. 20-87 and 20-88, the owner shall surrender the plate to the Division and receive therefor a plate of the proper category, and the unexpired portion of the fee originally paid by the owner for the plate so surrendered shall be a credit toward the fee charged for the new plate of the proper category. Provided, that the owner shall not be entitled to a cash refund when the registration fee for the vehicle to which the plates are to be assigned is less than the registration fee for that vehicle to which the license plates were last assigned. ~~Provided, however, registration plates may not be transferred under this section after December 31 of the~~

~~year for which issued.~~ An owner assigning or transferring plates to another vehicle as provided herein shall be subject to the same assessments and penalties for use of the plates on another vehicle or for improper use of the plates, as he could have been for the use of the plates on the vehicle to which last assigned. Provided, however, that upon compliance with the requirements of this section, the registration plates of vehicles owned by and registered in the name of a corporation may be transferred and assigned to a like vehicle category within the meaning of G.S. 20-87 and 20-88, upon the showing that the vehicle to which the transfer and assignment is to be made is owned by a corporation which is a wholly owned subsidiary of the corporation applying for such transfer and assignment."

SECTION 2. G.S. 20-66(g) reads as rewritten:

"(g) When Renewal Sticker Expires. – The registration of a vehicle that is renewed by means of a registration renewal sticker expires at midnight on the last day of the month designated on the sticker. It is lawful, however, to operate the vehicle on a highway until midnight on the fifteenth day of the month following the month in which the sticker expired ~~if the vehicle is not registered under the International Registration Plan. If the vehicle is registered under the International Registration Plan, it is not lawful to operate the vehicle on a highway after the sticker expires.~~expired.

The Division may vary the expiration dates of registration renewal stickers issued for a type of vehicle so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division implements registration renewal for a type of vehicle by means of a renewal sticker, it may issue a registration renewal sticker that expires at the end of any monthly ~~interval beginning at nine months and ending at eighteen months.~~interval."

SECTION 3. G.S. 20-66(h) is repealed.

SECTION 4. G.S. 20-79 reads as rewritten:

"§ 20-79. Dealer license plates.

(a) How to Get a Dealer Plate. – A dealer licensed under Article 12 of this Chapter may obtain a dealer license plate by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division. The required fee is the amount set by G.S. 20-87(7).

(b) Number of Plates. – A dealer who was licensed under Article 12 of this Chapter for the previous 12-month period ending ~~April 30~~December 31 may obtain the number of dealer license plates allowed by the following table; the number allowed is based on the number of motor vehicles the dealer sold during the relevant 12-month period and the average number of qualifying sales representatives the dealer employed during that same 12-month period:

<u>Vehicles Sold In Relevant 12-Month Period</u>	<u>Maximum Number of Plates</u>
Fewer than 12	1
At least 12 but less than 25	4
At least 25 but less than 37	5
At least 37 but less than 49	6
49 or more	At least 6, but no more than 4 times the average number of qualifying sales representatives employed by the dealer during the relevant 12-month period.

A dealer who was not licensed under Article 12 of this Chapter for part or all of the previous 12-month period ending ~~April 30~~December 31 may obtain the number of

dealer license plates that equals four times the number of qualifying sales representatives employed by the dealer on the date the dealer files the application. A "qualifying sales representative" is a sales representative who works for the dealer at least 25 hours a week on a regular basis and is compensated by the dealer for this work.

A dealer who sold fewer than 49 motor vehicles the previous 12-month period ending ~~April 30~~December 31 but has sold at least that number since ~~May 1~~January 1 may apply for additional dealer license plates at any time. The maximum number of dealer license plates the dealer may obtain is the number the dealer could have obtained if the dealer had sold at least 49 motor vehicles in the previous 12-month period ending ~~April 30~~December 31.

A dealer who applies for a dealer license plate must certify to the Division the number of motor vehicles the dealer sold in the relevant period. Making a material misstatement in an application for a dealer license plate is grounds for the denial, suspension, or revocation of a dealer's license under G.S. 20-294.

A dealer engaged in the alteration and sale of specialty vehicles may apply for up to two dealer plates in addition to the number of dealer plates that the dealer would otherwise be entitled to under this section.

(c) Form and Duration. – A dealer license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" plate. In addition, a dealer license plate must have a distinguishing symbol identifying the plate as a dealer license plate.

A dealer license plate is issued for a ~~fiscal year beginning July 1 and ending June 30~~period of one year. ~~During the fiscal year for which it is issued, a dealer may transfer a dealer license plate from one vehicle to another. The Division shall vary the expiration dates of dealer registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. A dealer may transfer a dealer license plate from one vehicle to another. When the Division issues a dealer plate, it may issue a registration that expires at the end of any monthly interval.~~ When one of the following occurs, a dealer must surrender to the Division all dealer license plates issued to the dealer:

- (1) The dealer surrenders the license issued to the dealer under Article 12 of this Chapter.
- (2) The Division suspends or revokes the license issued to the dealer under Article 12 of this Chapter.
- (3) The Division rescinds the dealer license plates because of a violation of the restrictions on the use of a dealer license plate.

To obtain a dealer license plate after it has been surrendered, the dealer must file a new application for a dealer license plate and pay the required fee for the plate.

(d) Restrictions on Use. – A dealer license plate may be displayed only on a motor vehicle that meets all of the following requirements:

- (1) Is part of the inventory of the dealer.
- (2) Is not consigned to the dealer.
- (3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.
- (4) Is not used by the dealer in another business in which the dealer is engaged.
- (5) Is driven on a highway by a person who carries a copy of the registration card for the dealer plates issued to the dealer while driving the motor vehicle and who meets one of the following descriptions:

- a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.
- b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.
- c. Is an employee of the dealer and is driving the vehicle in the course of employment.

A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive that type of motor vehicle. A demonstration permit authorizes each person named in the permit to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour period.

A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal of a person except as authorized by this subsection.

(e) Sanctions. – The following sanctions apply when a motor vehicle displaying a dealer license plate is driven in violation of the restrictions on the use of the plate:

- (1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of fifty dollars (\$50.00).
- (2) The dealer to whom the plate is issued is subject to a civil penalty imposed by the Division of two hundred dollars (\$200.00).
- (3) The Division may rescind all dealer license plates issued to the dealer whose plate was displayed on the motor vehicle.

A penalty imposed under subdivision (1) of this subsection is payable to the county where the infraction occurred, as required by G.S. 14-3.1. A civil penalty imposed under subdivision (2) of this subsection shall be credited to the Highway Fund as nontax revenue.

(f) Transfer of Dealer Registration. – No change in the name of a firm, partnership or corporation, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered a new business; but if any one or more of the partners remain in the firm, or if there is change in ownership of less than a majority of the stock, if a corporation, the business shall be regarded as continuing and the dealers' plates originally issued may continue to be used."

SECTION 5. G.S. 20-87 reads as rewritten:

"§ 20-87. Passenger vehicle registration fees.

These fees shall be paid to the Division ~~annually, as of the first day of January,~~ annually for the registration and licensing of passenger vehicles, ~~fees~~ according to the following classifications and schedules:

- (1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is operated for compensation and has a capacity of 15 passengers or less is seventy-eight dollars (\$78.00). The fee for a passenger vehicle that is operated for compensation and has a capacity of more than 15 passengers is one dollar and forty cents (\$1.40) per hundred pounds of empty weight of the vehicle.
- (2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	\$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00
Automobiles:	15 or fewer passengers	\$41.00
Buses:	16 or more passengers	\$1.40

per hundred
pounds of empty weight

Trucks under 7,000
pounds that do not haul
products for hire:

4,000 pounds	\$41.50
5,000 pounds	\$51.00
6,000 pounds	\$61.00.

- (3) Repealed by Session Laws 1981, c. 976, s. 3.
- (4) Limousine Vehicles. – For-hire passenger vehicles on call or demand which do not solicit passengers indiscriminately for hire between points along streets or highways, shall be taxed at the same rate as for-hire passenger vehicles under G.S. 20-87(1) but shall be issued appropriate registration plates to distinguish such vehicles from taxicabs.
- (5) Private Passenger Vehicles. – There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of private passenger vehicles, fees according to the following classifications and schedules:
 Private passenger vehicles of not more than fifteen passengers ..\$20.00
 Private passenger vehicles over fifteen passengers.....23.00
 Provided, that a fee of only one dollar (\$1.00) shall be charged for any vehicle given by the federal government to any veteran on account of any disability suffered during war so long as such vehicle is owned by the original donee or other veteran entitled to receive such gift under Title 38, section 252, United States Code Annotated.
- (6) Private Motorcycles. – The base fee on private passenger motorcycles shall be nine dollars (\$9.00); except that when a motorcycle is equipped with an additional form of device designed to transport persons or property, the base fee shall be sixteen dollars (\$16.00). An additional fee of three dollars (\$3.00) is imposed on each private motorcycle registered under this subdivision in addition to the base fee. The revenue from the additional fee, in addition to any other funds appropriated for this purpose, shall be used to fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.
- (7) Dealer License Plates. – The fee for a dealer license plate is the regular fee for each of the first five plates issued to the same dealer and is one-half the regular fee for each additional dealer license plate issued to the same dealer. The "regular fee" is the fee set in subdivision (5) of this section for a private passenger motor vehicle of not more than 15 passengers.
- (8) Driveaway Companies. – Any person engaged in the business of driving new motor vehicles from the place of manufacture to the place of sale in this State for compensation shall pay a fee of one-half of the amount that would otherwise be payable under this section for each set of plates.
- (9) House Trailers. – In lieu of other registration and license fees levied on house trailers under this section or G.S. 20-88, the registration and license fee on house trailers shall be seven dollars (\$7.00) for the license year or any portion thereof.

- (10) Special Mobile Equipment. – The fee for special mobile equipment for the license year or any part of the license year is two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers.
- (11) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee.
- (12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as the fee for private passenger vehicles of not more than 15 passengers."

SECTION 6. G.S. 20-88(b)(6) reads as rewritten:

- "(6) There shall be paid to the Division annually ~~as of the first of January,~~ the following fees for "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped weighing 7,000 pounds or less, seventy-five dollars (\$75.00); wreckers weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars (\$148.00). Fees to be prorated ~~quarterly-~~monthly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer."

SECTION 7. G.S. 20-88(c) reads as rewritten:

"(c) The fee for a semitrailer or trailer is ten dollars (\$10.00) for each year or part of a year. The fee is payable ~~on or before January 1 of each year.~~ Upon the application of the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration card for the semitrailer or trailer for a fee of seventy-five dollars (\$75.00). A multiyear plate and registration card for a semitrailer or trailer are valid until the owner transfers the semitrailer or trailer to another person or surrenders the plate and registration card to the Division. A multiyear plate may not be transferred to another vehicle.

The Division shall issue a multiyear semitrailer or trailer plate in a different color than an annual semitrailer or trailer plate and shall include the word "multiyear" on the plate. The Division may not issue a multiyear plate for a house trailer."

SECTION 8. G.S. 20-94 reads as rewritten:

"§ 20-94. Partial payments.

In the purchase of licenses, where the gross amount of the license fee to any one owner amounts to more than four hundred dollars (\$400.00), half of such payment may, if the Commissioner is satisfied of the financial responsibility of such owner, be deferred until ~~June 1~~ six months from the month of renewal in any calendar year upon the execution to the Commissioner of a draft upon any bank or trust company upon forms to be provided by the Commissioner in an amount equivalent to one half of such fee, plus a carrying charge of three percent (3%) of the deferred portion of the license fee: Provided, that any person using any tag so purchased after the first day of ~~June~~ six months from the month of renewal in any such year without having first provided for the payment of such draft, shall be guilty of a Class 2 misdemeanor. No further license plates shall be issued to any person executing such a draft after the due date of any such draft so long as such draft or any portion thereof remains unpaid. Any such draft being dishonored and not paid shall be subject to the penalties prescribed in G.S. 20-178 and shall be immediately turned over by the Commissioner to his duly authorized agents and/or the State Highway Patrol, to the end that this provision may be enforced. When the owner of the vehicles for which a draft has been given sells or transfers ownership to

all vehicles covered by the draft, such draft shall become payable immediately, and such vehicles shall not be transferred by the Division until the draft has been paid. Any one owner whose gross license fee amounts to more than two hundred dollars (\$200.00) but not more than four hundred dollars (\$400.00) may also be permitted to sign a draft in accordance with the foregoing provisions of this section provided such owner makes application for the draft ~~on or before February 1~~ during the license renewal ~~period~~ month of renewal."

SECTION 9. G.S. 20-288(c) reads as rewritten:

"(c) All licenses that are granted shall expire one year from the date issued unless sooner revoked or suspended, on June 30 of the year following date of issue-suspended."

SECTION 10. G.S. 20-183.2 is amended by adding a new subsection to read:

"(a1) Safety Inspection Exception. – Historic vehicles, as defined in G.S. 20-79.4(b)(17), shall not be subject to a safety inspection pursuant to this Article."

SECTION 11. This act becomes effective January 1, 2005.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:53 p.m. on the 2nd day of August, 2004.

S.B. 1089

Session Law 2004-168

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO RECEIVE FUNDS FROM LOCAL GOVERNMENTS TO ADVANCE THE CONSTRUCTION SCHEDULE OF TIP PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(38) To enter into agreements with municipalities, counties, governmental entities, or nonprofit corporations to receive funds for the purpose of advancing the construction schedule of a project identified in the Transportation Improvement Program. If these funds are subject to repayment by the Department, prior to receipt of funds, reimbursement of all funds received by the Department shall be shown in the existing Transportation Improvement Program and shall be reimbursed within seven years of receipt."

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

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 4:55 p.m. on the 2nd day of August, 2004.

S.B. 805

Session Law 2004-169

AN ACT TO BEAUTIFY THE STATE GOVERNMENT MALL.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Administration shall use funds within its budget for the 2003-2005 fiscal biennium to remove the water fountain located on the State Government Mall just north of the bridge between the State Legislative building and the Mall and to beautify the site.

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

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 4:56 p.m. on the 2nd day of August, 2004.

S.B. 1145**Session Law 2004-170**

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES, TO CLARIFY THAT THE CREDIT FOR CREATING JOBS IS ALLOWED ONLY FOR NEW JOBS CREATED IN THIS STATE, AND TO PROHIBIT THE USE OF FUTURE ROOM TAX COLLECTIONS IN CERTAIN COUNTIES AND CITIES TO DEVELOP OR CONSTRUCT A HOTEL OR SIMILAR LODGING FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 30C.3(b) of S.L. 2002-126, as amended by Section 37A.4 of S.L. 2003-284, 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 and~~ Section 37A.5 of S.L. 2003-284 are repealed effective for the estates of decedents dying on or after July 1, 2005."

SECTION 2. The lead-in language of Section 2 of S.L. 2003-360 reads as rewritten:

"**SECTION 2.** The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Sections ~~4-1, 5,~~ and 6 of this act are as follows:"

SECTION 3.(a) S.L. 2003-405 is reenacted.

SECTION 3.(b) This section is effective on and after August 12, 2003, and is repealed effective on the date that S.L. 2003-405 is repealed.

SECTION 4.(a) 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~~ section and without regard to the deduction for state death taxes allowed under section 2058 of the Code. 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 4.(b) This section is repealed effective for the estates of decedents dying on or after July 1, 2005.

SECTION 5. G.S. 105-113.5 reads as rewritten:

"§ 105-113.5. Tax on cigarettes.

A tax is levied on the sale or possession for sale in this State, by a distributor, of all cigarettes at the rate of two and one-half mills per individual cigarette.

~~This tax does not apply to any of the following:~~

- ~~(1) Sample cigarettes distributed without charge in packages containing five or fewer cigarettes.~~
- ~~(2) Cigarettes in a package of cigarettes given without charge by the manufacturer of the cigarettes to an employee of the manufacturer who works in a factory where cigarettes are made, if the cigarettes are not taxed by the federal government."~~

SECTION 6. G.S. 105-113.68(a)(2) is repealed.

SECTION 7. 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) on wine 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, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the 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 8. G.S. 105-113.108(a) reads as rewritten:

"(a) Revenue Stamps. – The Secretary shall issue stamps to affix to unauthorized substances to indicate payment of the tax required by this Article. Dealers shall report the taxes payable under this Article at the time and on the ~~form~~ return prescribed by the Secretary. ~~Dealers~~ Notwithstanding any other provision of law, dealers are not required to give their name, address, social security number, or other identifying information on the ~~form~~ return, and the return is not required to be verified by oath or affirmation. Upon payment of the tax, the Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person."

SECTION 8.1. G.S. 105-114.1(b), as amended by ratified Senate Bill 51, 2003 General Assembly, reads as rewritten:

"(b) Controlled Companies. – If a corporation or an affiliated group of corporations owns seventy percent (70%) or more of the capital interests in a limited liability company, the corporation or group of corporations must include in its three tax bases pursuant to G.S. 105-122~~under this Article~~ the same percentage of (i) the limited

liability company's capital stock, surplus, and undivided profits; (ii) fifty-five percent (55%) of the limited liability company's appraised ad valorem tax value of property; and (iii) the limited liability company's actual investment in tangible property in this State, as appropriate, the limited liability company's net assets."

SECTION 9. 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:

...
(12a) Interstate air courier. – Defined in G.S. 105-164.3."

SECTION 10. 105-129.4(b2) reads as rewritten:

"(b2) Health Insurance. – A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed when the jobs are created and each year it claims an installment or carryforward of the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed when the taxpayer engages in the activity that qualifies for the credit and each year it claims an installment or carryforward of the credit. For the purposes of this subsection, a taxpayer 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 taxpayer claims a credit or an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit."

SECTION 11. G.S. 105-129.4(b6) reads as rewritten:

"(b6) Overdue Tax Debts. – A taxpayer is not eligible for a credit allowed under this Article if, at the time the taxpayer claims the credit or an installment or carryforward of the credit, the taxpayer has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved."

SECTION 12. G.S. 105-129.6(b) reads as rewritten:

"(b) Reports. – The Department of Revenue shall publish by ~~March~~ April 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:

- (1) The number of claims for each credit allowed in this Article.
- (2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were claimed.
- (3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were claimed.
- (4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.

- (5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were claimed.
- (6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were claimed.
- (7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were claimed."

SECTION 13. G.S. 105-129.9(d) reads as rewritten:

"(d) Expiration. – As used in this subsection, the term 'disposed of' means disposed of, taken out of service, or moved out of State.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, ~~taken out of service, or moved out of State~~, the credit expires and the taxpayer may not take any remaining installment of the credit for that machinery and equipment unless the cost of that machinery and equipment is offset in the same taxable year by the taxpayer's new investment in eligible machinery and equipment placed in service in the same enterprise tier, as provided in this subsection. If, during the taxable year the taxpayer disposed of the machinery and equipment for which installments remain, there has been a net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same enterprise tier as the machinery and equipment that were disposed of, and the amount of this reduction is greater than twenty percent (20%) of the cost of the machinery and equipment that were disposed of, then the taxpayer forfeits the remaining installments of the credit for the machinery and equipment that were disposed of. If the amount of the net reduction is equal to twenty percent (20%) or less of the cost of the machinery and equipment that were disposed of, or if there is no net reduction, then the taxpayer does not forfeit the remaining installments of the expired credit. In determining the amount of any net reduction during the taxable year, the cost of machinery and equipment the taxpayer placed in service during the taxable year and for which the taxpayer claims a credit under Article 3B of this Chapter may not be included in the cost of all the taxpayer's eligible machinery and equipment that are in service. If in a single taxable year machinery and equipment with respect to two or more credits in the same tier are disposed of, the net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same tier is compared to the total cost of all the machinery and equipment for which credits expired in order to determine whether the remaining installments of the credits are forfeited.

The expiration of a credit does not prevent the taxpayer from taking the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved."

SECTION 14. G.S. 105-129.35(c)(4) reads as rewritten:

"(4) State Historic Preservation Officer. – Defined in G.S. ~~105-129.6~~.105-129.36."

SECTION 15. G.S. 105-130.4(a)(6) reads as rewritten:

"(a) As used in this section, unless the context otherwise requires:

...

(6) 'Public utility' means any corporation that is subject to control of one of more of the following entities: the North Carolina Utilities Commission, the Federal Communications Commission, the Interstate Commerce Commission, the Federal ~~Power~~–Energy Regulatory Commission, or the Federal Aviation Agency; and that owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, the transportation of goods or persons, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam, oil, oil products, or gas. The term also includes a motor carrier of property whose principal business activity is transporting property by motor vehicle for hire over the public highways of this State."

SECTION 16.(a) G.S. 105-130.46 reads as rewritten:

"§ 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. A job is included in the employment level for a year only if that job is located within the State for more than six months of the year. A job is located in this State if more than fifty percent (50%) of the employee's duties are performed in this State.
- (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 for the taxable year 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 for the taxable year 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)~~(c) 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 ~~(e)~~(d) 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 for the taxable year 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 for the taxable year 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 ~~(e)~~(d) 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 16.(b) This section is effective for taxable years beginning on or after January 1, 2006, and expires for exports occurring on or after January 1, 2018.

SECTION 17. G.S. 105-160.3(b)(6) is repealed.

SECTION 18. G.S. 105-164.3(28) reads as rewritten:

"(28) Prepared food. – Food that meets at least one of the conditions of this subdivision. Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not ~~otherwise process, heat, mix, or sell with eating utensils.~~

- 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."

SECTION 19. G.S. 105-164.3(37) reads as rewritten:

"(37) Sales price. – The total amount or consideration for which personal property or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

- a. The term includes all of the following:
 1. The retailer's cost of the property sold.
 2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.
 3. Charges by the retailer for any services necessary to complete the sale.
 4. Delivery charges.
 5. Installation charges.
 6. The value of exempt personal property given to the consumer when taxable and exempt personal property

are bundled together and sold by the retailer as a single product or piece of merchandise.

7. Credit for trade-in.

- b. The term does not include any of the following:
1. Discounts, including cash, term, or coupons, that are not reimbursed by a third party, are allowed by the retailer, and are taken by a consumer on a sale.
 2. Interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer.
 3. Any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer."

SECTION 20. G.S. 105-164.4B(a)(3) reads as rewritten:

"(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; address from which tangible personal property was shipped or from which a service was provided."

SECTION 21.(a) G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – **(Effective July 1, 2004 and applicable to sales made on or after that date)** The State is allowed quarterly refunds 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. ~~services and of~~

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 21.(b) This section becomes effective July 1, 2004.

SECTION 22. G.S. 105-164.29A reads as rewritten:

"§ 105-164.29A. State government exemption process.

(a) Application. – To be eligible for the exemption provided in G.S. ~~105-164.13(51)~~, 105-164.13(52), 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 22.5. G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee to pay contractors for collecting tax debts under subsection (b) of this section and to pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts."

SECTION 23. G.S. 105-259(b)(7) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...
(7) To exchange information with the Division of the State Highway Patrol of the Department of Crime Control and Public ~~Safety~~ Safety, the Division of Motor Vehicles of the Department of Transportation, or the International Fuel Tax Association, Inc., when the information is needed to fulfill a duty imposed on the Department of ~~Revenue~~ Revenue, the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, or the Division of Motor Vehicles of the Department of Transportation. ~~Safety.~~"

SECTION 24. G.S. 105-449.47(a1) reads as rewritten:

"(a1) Registration and Identification Marker. – When the Secretary registers a motor carrier, the Secretary must issue at least one identification marker for each motor vehicle operated by the motor carrier. A motor carrier must keep records of identification markers issued to it and must be able to account for all identification markers it receives from the Secretary. Registrations and identification markers issued

by the Secretary are for a calendar year. ~~The Secretary may renew a registration or an identification marker without issuing a new registration or identification marker.~~ All identification markers issued by the Secretary remain the property of the State. The Secretary may withhold or revoke a registration or an identification marker when a motor carrier fails to comply with this Article, former Article 36 or 36A of this Subchapter, or Article 36C or 36D of this Subchapter.

A motor carrier must carry a copy of its registration in each motor vehicle operated by the motor carrier when the vehicle is in this State. A motor vehicle must clearly display an identification marker at all times. The identification marker must be affixed to the vehicle for which it was issued in the place and manner designated by the authority that issued it."

SECTION 25. G.S. 105-449.52(a) reads as rewritten:

"(a) Penalty. – A motor carrier who does any of the following is subject to a civil penalty:

- (1) Operates in this State or causes to be operated in this State a motor vehicle that ~~does not~~ either fails to carry the registration card required by this Article or ~~does not~~ fails to display an identification marker in accordance with this Article. The amount of the penalty is one hundred dollars (\$100.00).
- (2) Is unable to account for identification markers the Secretary issues the motor carrier, as required by G.S. 105-449.47. The amount of the penalty is one hundred dollars (\$100.00) for each identification marker the carrier is unable to account for.
- (3) Displays an identification marker on a motor vehicle operated by a motor carrier that was not issued to the carrier by the Secretary under G.S. 105-449.47. The amount of the penalty is one thousand dollars (\$1,000) for each identification marker unlawfully obtained. Both the licensed motor carrier to whom the Secretary issued the identification marker and the motor carrier displaying the unlawfully obtained identification marker are jointly and severally liable for the penalty under this subdivision.

A penalty imposed under this section is payable to the Department of ~~Revenue~~ Revenue, the Department of Crime Control and Public Safety, or the Division of Motor Vehicles. When a motor vehicle is found to be operating without a registration card or an identification marker or with an identification marker the Secretary did not issue for the vehicle, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty."

SECTION 26. G.S. 105-449.54 reads as rewritten:

"§ 105-449.54. Commissioner of Motor Vehicles made process agent of nonresident motor carriers.

~~The acceptance by~~ By operating a motor vehicle on the highways of this State, a nonresident motor carrier consents to the appointment of ~~of the rights and privileges conferred by the laws now or hereafter in force in this State permitting the operation of motor vehicles, as evidenced by the operation of a motor vehicle by such nonresident, either personally or through an agent or employee, on the public highways of this State, or the operation by such nonresident, either personally or through an agent or employee, of a motor vehicle on the public highways of this State other than as so permitted or~~

~~regulated, shall be deemed equivalent to the appointment by such nonresident motor carrier of the Commissioner of Motor Vehicles as its attorney in fact and process agent for Vehicles, or his successor in office, to be his true and lawful attorney and the attorney of his executor or administrator, upon whom may be served all summonses or other lawful process or notice in any action, assessment proceeding assessment, or other proceeding against him or his executor or administrator, arising out of or by reason of any provisions of this Article relating to such vehicle or relating to the liability for tax with respect to operation of such vehicle on the highways of this State. Said acceptance or operation shall be a signification by such nonresident motor carrier of his agreement that any such process against or notice to him or his executor or administrator shall be of the same legal force and validity as if served on him personally, or on his executor or administrator. All of the provisions of G.S. 1-105 following the first paragraph thereof shall be applicable with respect to the service of process or notice pursuant to this section under this Chapter."~~

SECTION 27. G.S. 105-449.60(7) reads as rewritten:

"§ 105-449.60. Definitions.

The following definitions apply in this Article:

- ...
- (7) Diesel fuel. – Any liquid, other than gasoline, that is suitable for use as a fuel in a diesel-powered highway vehicle. The term includes ~~kerosene and biodiesel~~ biodiesel, fuel oil, heating oil, high-sulfur dyed diesel fuel, and kerosene. The term does not include jet fuel sold to a buyer who is certified to purchase jet fuel under the Code."

SECTION 28. The lead-in language of G.S. 105-449.72(a) 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 or an irrevocable letter of credit 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:"

SECTION 29. G.S. 105-449.74 reads as rewritten:

"§ 105-449.74. Issuance of license.

Upon approval of an application, the Secretary must issue a license to the applicant ~~as well as a duplicate copy of the license for each place of business of the applicant~~. A supplier's license must indicate the category of the supplier. A license holder must maintain and display a copy of the license issued under this Part in a conspicuous place at each place of business of the license holder. A license is not transferable and remains in effect until surrendered or cancelled."

SECTION 30. G.S. 105-449.81(3a) reads as rewritten:

"An excise tax at the motor fuel rate is imposed on motor fuel that is:

- ...
- (3a) Fuel ~~grade ethanol~~ alcohol or biodiesel, if it meets either that meets any of the following descriptions:
- a. Is removed from a terminal or another storage and distribution facility, unless the removed fuel is received by a supplier for subsequent sale.

- b. Is imported to this State outside the terminal transfer system by a means other than a marine vessel, a transport truck, or a railroad tank car."

SECTION 31. G.S. 105-449.123 reads as rewritten:

"§ 105-449.123. Marking requirements for dyed ~~diesel~~-fuel storage facilities.

(a) Requirements. – A person who is a retailer of dyed ~~diesel~~-motor fuel or who stores both dyed and undyed ~~diesel~~-motor fuel for use by that person or another person must mark the storage facility for the dyed ~~diesel~~-motor fuel as follows 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.

(b) Exception. – The marking requirements of this section do not apply to a storage facility that contains fuel used only for one of the purposes listed in G.S. 105-449.105A(a)(1) and is installed in a manner that makes use of the fuel for any other purpose improbable."

SECTION 32. 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, on a monthly basis, distribute local taxes levied on food to the taxing counties 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 or under Chapter 1096 of the 1967 Session Laws 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~~. Chapter and under Chapter 1096 of the 1967 Session Laws.

(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 33. G.S. 119-15.1 reads as rewritten:

"§ 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 terminal operator is licensed as a supplier-terminal operator under Part 2 of Article 36C of Chapter 105 of the General Statutes."

SECTION 34. G.S. 119-19 reads as rewritten:

"§ 119-19. Authority of Secretary to cancel a license.

The Secretary of Revenue may cancel a license issued under ~~G.S. 119-16.2~~this Article upon the written request of the license holder. The Secretary may summarily cancel a license issued under ~~G.S. 119-16.2 or this Article or under~~ Article 36C or 36D of Chapter 105 of the General Statutes when the Secretary finds that the license holder is incurring liability for the tax imposed by this Article after failing to pay a tax when due under this Article. The Secretary may cancel the license of a license holder who files a false report under this Article or fails to file a report required under this Article after holding a hearing on whether the license should be cancelled.

The Secretary must send a person whose license is summarily cancelled a notice of the cancellation and must give the person an opportunity to have a hearing on the cancellation within 10 days after the cancellation. The Secretary must give a person whose license may be cancelled after a hearing at least 10 days' written notice of the date, time, and place of the hearing. A notice of a summary license cancellation and a notice of hearing must be sent by registered mail to the last known address of the license holder.

When the Secretary cancels a license and the license holder has paid all taxes and penalties due under this Article, the Secretary must either return to the license holder the bond filed by the license holder or notify the person liable on the bond and the license holder that the person is released from liability on the bond."

SECTION 35. G.S. 120-70.108(a) reads as rewritten:

"(a) The Revenue Laws Study Committee shall establish a Property Tax Subcommittee consisting of ~~six~~up to eight members. The Senate cochair of the Committee shall designate ~~three~~up to four members appointed by the President Pro Tempore of the Senate to serve on the Subcommittee and shall name one of those members a cochair of the Subcommittee. The House cochair of the Committee shall designate ~~three~~up to four members appointed by the Speaker of the House of Representatives to serve on the Subcommittee and shall name one of those members a cochair of the Subcommittee. The Subcommittee shall meet upon the call of the Subcommittee cochairs."

SECTION 36.(a) G.S. 153A-155(d) reads as rewritten:

"(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county 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~~20th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 36.(b) G.S. 160A-215(d) reads as rewritten:

"(d) Administration. – The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the ~~fifteenth~~20th 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 fifteenth day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 36.(c) This section becomes effective October 1, 2004.

SECTION 37. The title of Article 16 of Chapter 153A of the General Statutes reads as rewritten:

"Article 16.

County Service Districts; County Research and Production Service ~~Districts~~. Districts;
County Economic Development and Training Districts."

SECTION 38. G.S. 153A-317.11 reads as rewritten:

"§ ~~153A-317.11. Purpose for which districts may be created~~and nature of districts.

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. A district created under this Part is a special tax area under Section 2(4) of Article V of the North Carolina Constitution."

SECTION 39. G.S. 153A-317.17 reads as rewritten:

"§ ~~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~~for the purposes listed in G.S. 153A-317.11 within the district in addition to or to a greater extent than ~~worker training facilities~~the same purposes 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 40.(a) Section 6 of Chapter 650 of the 1987 Session Laws is codified as the first two paragraphs of G.S. 159-99.

SECTION 40.(b) Sections 7 and 5 of Chapter 650 of the 1987 Session Laws are codified as the second and third paragraphs, respectively, of G.S. 159-100.

SECTION 40.(c) Article 5A of Chapter 159 of the General Statutes, as amended by this section, reads as rewritten:

"Article 5A.

"Capital Appreciation Bonds.

"§ 159-99. ~~Issuance of capital appreciation bonds pursuant to the Local Government Bond Act.~~ Definition; terms and conditions.

(a) Capital Appreciation Bond Defined. – For purposes of this act, ~~Article~~, the term 'capital appreciation bonds' ~~means any bond or bonds~~ means a bond that meets all of the following conditions:

- (1) It is sold, at public or private sale, at a price substantially less, as conclusively determined by the issuer thereof, of the bond, than the principal amount thereof and compounded of the bond.
- (2) Compounded interest thereon on the bond is payable at maturity, but only if such bond or bonds are maturity.
- (3) The bond is designated as a capital appreciation bonds bond within the meaning of this act Article by the proceedings of the issuer thereof providing for the issuance of such bonds of the bond providing for its issuance.

(b) Calculating Principal Amount. – For purposes of calculating the aggregate principal amount of bonds within the meaning of any constitutional or statutory limitation on the incurrence of debt, the aggregate principal amount of any capital appreciation bonds ~~shall be~~ is the aggregate of the initial offering prices at which ~~such the~~ the bonds are offered for sale to the public, including private or negotiated sales, or sold to the initial purchaser ~~thereof of the bonds~~ in a private placement, in either case without reduction to reflect underwriters' discount or placement agents' or other intermediaries' fees.

(c) Terms and Conditions. – The proceedings providing for the issuance of any ~~such capital appreciation~~ bonds may provide for the issuance of terms bonds or serial bonds, or both, the establishment of sinking funds for or the redemption of term bonds, the issuance of capital appreciation bonds at the same time and as part of the same issue of any other type of bonds, the method of calculating the principal amount of any ~~such~~ capital appreciation bonds outstanding for the purpose of determining, within the meaning of ~~such the~~ the proceedings and otherwise, application of debt service provisions, funds into which debt service payments are to be deposited, application of redemption provisions, bondowners' voting rights and consents, pro rata application of available ~~funds and such other matters as may be deemed appropriate by the issuer.~~ funds, and any other matters the issuer considers appropriate.

~~Local governmental units are hereby authorized to issue capital appreciation bonds pursuant to the provisions of The Local Government Bond Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~

~~"§ 159-100. Issuance of capital appreciation bonds pursuant to The State and Local Government Revenue Bond Act. Authorization.~~

~~(a) Revenue Bond Act. – The State and local governmental units are hereby authorized to issue capital appreciation bonds pursuant to the provisions of The State and Local Government Revenue Bond Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds. Act.~~

~~(b) Local Government Bond Act. – Local governmental units are authorized to issue capital appreciation bonds pursuant to the provisions of The Local Government Bond Act. In connection with the issuance of a series of bonds containing capital appreciation bonds issued by local governmental units pursuant to The Local Government Bond Act, the Local Government Commission is hereby authorized to may require that annual debt service on ~~such~~ the series of bonds be as nearly level or equal as possible taking into consideration prevailing financial techniques, including, without limitation, the postponement of principal maturities in early years of the issue and the use of capitalized interest. The Local Government Commission is ~~hereby further authorized to~~ may also limit the amount of a series of bonds that may be issued as capital appreciation bonds and to make the issuance of any ~~such~~ capital appreciation bonds subject to a finding by the Commission or the issuer that the issuance of ~~such~~ the bonds will not increase the aggregate amount of debt service payable on ~~such~~ the series of bonds of which ~~such~~ the capital appreciation bonds constitute a part.~~

~~(c) Future Acts. – The State and local Local governmental units are hereby authorized to issue capital appreciation bonds pursuant to the provisions of any law enacted in the future hereafter enacted, including laws enacted at the same session of the General Assembly at which this act is enacted, and to the extent that the provisions of such laws are inconsistent with the issuance of such bonds and provided such provisions are not expressly contrary, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds."~~

SECTION 41.(a) Sections 2, 4, and 5 of Chapter 650 of the 1987 Session Laws are codified as G.S. 142-15.3.

SECTION 41.(b) G.S. 142-15.3, as codified by this section, reads as rewritten:

"§ 142-15.3. Capital appreciation bonds.

~~(a) Cross-Reference. – The provisions of G.S. 159-99 govern capital appreciation bonds.~~

~~(b) Authorization. – The State and local governmental units are hereby is authorized to issue capital appreciation bonds pursuant to the provisions of The State and Local Government Revenue Bond Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds. Act. The State is hereby authorized to issue capital appreciation bonds pursuant to the provisions of applicable law and ~~law~~ and to the extent that the provisions of such law are inconsistent with the issuance of such bonds, such inconsistent provisions are~~

~~hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds. The State and local governmental units are hereby authorized to issue capital appreciation bonds pursuant to the provisions of any law enacted in the future hereafter enacted, including laws enacted at the same session of the General Assembly at which this act is enacted, and to the extent that the provisions of such laws are inconsistent with the issuance of such bonds and provided such provisions are not expressly contrary, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds."~~

SECTION 42.(a) G.S. 153A-155 is amended by adding a new subsection to read:

"(f1) Use. – The proceeds of a room occupancy tax shall not be used directly or indirectly for development or construction of a hotel or another transient lodging facility."

SECTION 42.(b) G.S. 160A-215 is amended by adding a new subsection to read:

"(f1) Use. – The proceeds of a room occupancy tax shall not be used directly or indirectly for development or construction of a hotel or another transient lodging facility."

SECTION 42.(c) This section becomes effective July 1, 2004, and applies to taxes that accrue on or after that date.

SECTION 43.(a) G.S. 105-129.8 reads as rewritten:

"§ 105-129.8. Credit for creating jobs.

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more full-time employees, and hires an additional full-time employee during the taxable year to fill a new position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars (\$4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	\$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

(a1) Positions. – A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The number of new positions a taxpayer fills during the taxable year is determined by subtracting the highest number of full-time employees the taxpayer had in this State at any time during the 12-month period preceding the beginning of the taxable year from the number of full-time employees the taxpayer has in this State at the end of the taxable year.

(a2) Installments. – The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit must be taken in equal installments over the four years following the taxable year in which the additional employee was hired and is conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the

taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

(a3) Transferred Jobs. – Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit must be calculated as if the position had been created initially in the area to which it was moved.

(b) Repealed by Session Laws 1989, c. 111, s. 1.

(b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

(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, 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.

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3."

SECTION 43.(b) This section becomes effective for taxable years beginning on or after January 1, 2004.

SECTION 44. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law upon approval of the Governor at 4:57 p.m. on the 2nd day of August, 2004.

S.B. 676

Session Law 2004-171

AN ACT TO AMEND CERTAIN BANKING LAWS OF NORTH CAROLINA AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE NEED FOR FURTHER AMENDMENTS TO THE STATE BANKING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-48 reads as rewritten:

"§ 53-48. **Limitation of loans.**

(a) The total loans and extensions of credit, both direct and indirect, by a bank to a person, other than a municipal corporation for money borrowed, including in the liabilities of a firm the liabilities of the several members thereof, outstanding at one time and not fully secured, as determined in a manner consistent with subsection (b) of this section, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed the greater of fifteen percent (15%) of the unimpaired capital fund of the ~~bank~~ or the percentage permitted for national banks in this State by statute or regulation of the Comptroller of the Currency.

(b) The total loans and extensions of credit, both direct and indirect, by a bank to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the ~~fund~~loan or extension of credit outstanding shall not exceed the greater of ten percent (10%) of the unimpaired capital fund of the ~~bank~~ or the percentage permitted for national banks by statute or regulation of the Comptroller of the Currency. This limitation shall be separate from and in addition to the limitation contained in subsection (a) ~~above of this section.~~

(c) The discount of bills of exchange drawn in good faith against actual existing values, the discount of solvent trade acceptances or other solvent commercial or business paper actually owned by the person negotiating the same, loans or extensions of credit secured by a segregated deposit account in the lending bank, the purchase of bankers acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks, and the purchase of any notes and the making of any loans, secured by not less than a like face amount of bonds of the United States, or an agency of the United States, or other obligations guaranteed by the United States Government, or State of North Carolina or certificates of indebtedness of the United States, or agency thereof, or other obligations guaranteed by the United States Government, shall not be considered as money borrowed within the meaning of this section: Provided, however, that the limitations of this section shall not apply to loans or obligations to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any federal reserve bank or by the United States or any department, board, bureau, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

(d) For purposes of this section, the term "person" shall be deemed to include an individual, or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed herein. Loans or extensions of credit to one person include loans made to other persons when the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person or the persons are engaged in a common enterprise. The Commissioner of Banks shall monitor the lending activities of banks under this section for undue credit concentrations and inadequate risk diversification which could adversely affect the safety and soundness of such banks."

SECTION 2. G.S. 53-67 reads as rewritten:

"§ 53-67. Banks controlled by boards of directors.

The corporate powers, business, and property of banks doing business under this Chapter shall be exercised, conducted, and controlled by its board of directors, which shall meet at least quarterly. Such board shall consist of not less than five directors, to be chosen by the stockholders, and shall hold office for the term for which they are elected, and until their successors are elected and qualified. The annual meeting of stockholders for the election of directors shall be held at such time as may be designated

by the charter or the bylaws of the bank but shall be held not later than ~~the thirtieth day of June in each year. June 30 each year;~~ provided, however, that any bank which has been open for business for fewer than 12 months as of June 30 of the current year shall hold its first annual meeting by not later than June 30 of the following year. In addition to the foregoing powers relating to the fixing of the number and the election of directors, the stockholders of a bank, at any stockholders' meeting, special or annual, may authorize not more than two additional directorships which may be left unfilled and to be filled in the discretion of the directors of the institution during the interval between such stockholders' meetings. Aside from the specific provisions of this section, the number, election, term and classification of the directors of banks doing business under this Chapter shall be governed by the provisions of the North Carolina Business Corporation Act."

SECTION 3. G.S. 53-99(b)(7b) reads as rewritten:

"(7b) Records of applications, examinationsexaminations, and investigations of registrantsapplicants, licensees, and exempt persons under the Mortgage Lending Act, Article 19A of this Chapter;".

SECTION 4. G.S. 53-115 reads as rewritten:

"§ 53-115. State Banking Commission to ~~make rules and regulations.~~ adopt rules.

(a) ~~The State Banking Commission is hereby authorized, empowered and directed to make all necessary rules and regulations, and to give all necessary instructions with respect to such actions of banking corporations which the Commissioner of Banks may authorize, permit and/or direct and require to be conducted under the provisions of G.S. 53-77, 53-114, 53-115, and 53-116. And it shall be the duty of all such banking corporations and their officers, agents and employees, to comply fully with any and all such rules, regulations and instructions, established and promulgated by the State Banking Commission with respect to such banking corporations under the terms of G.S. 53-77, 53-114, 53-115, and 53-116; and such orders, rules, and regulations shall have the same force and effect as rules, regulations and instructions promulgated under the existing banking laws.~~ with respect to the establishment, operation, conduct, and termination of any and all activities and businesses that are subject to licensing, regulation, supervision, or examination by the Commissioner of Banks under this Chapter.

(b) The rule-making authority conferred on the State Banking Commission by this section shall be in addition to and not in derogation of any specific rule-making authority by any other provision of this Chapter."

SECTION 5. G.S. 53-160 reads as rewritten:

"§ 53-160. License to do business.

Before any such bank or trust company is authorized to act in any fiduciary capacity without bond, it must be licensed by the Commissioner of Banks of the State. For such license the ~~licensee~~ licensee, for the purpose of defraying necessary expenses of the Commissioner of Banks and the Commissioner's agents in supervising and examining the licensee, shall pay to the ~~State Banking Commission an annual license fee of two hundred dollars (\$200.00), which shall be remitted to the State Treasurer for the use of the Commissioner of Banks in the supervision of banks and trust companies acting in a fiduciary capacity, insofar as it may be necessary, and the surplus, if any, shall remain in the State treasury for the use of the general fund of the State.~~ Commissioner of Banks an annual license fee not to exceed five hundred dollars (\$500.00) as required by rule of the State Banking Commission. Provided, however, that a national bank which has been granted trust powers by the Comptroller of the Currency or his duly authorized

agent shall be annually licensed as required in this section and shall be granted a certificate of solvency which will meet the provisions of G.S. 53-162 without examination by the Commissioner of Banks as required in G.S. 53-161."

SECTION 6. G.S. 53-208.12 reads as rewritten:

"§ 53-208.12. Quarterly reports.

A licensee shall file for each calendar quarter, no later than 60 days after the quarter has ended, a report which contains the total number of authorized delegates in this State. In addition, a licensee shall promptly provide any additional information regarding any or all of its current and prior authorized delegates requested by the Commissioner."

SECTION 7. G.S. 53-243.02(c) reads as rewritten:

"(c) The license of a loan officer is not effective during any period when that person is not employed by a mortgage broker or mortgage banker licensed under this Article. The license of an exclusive mortgage broker is not effective during any period when that person is not authorized to act as a single licensee or exempt person pursuant to G.S. 53-243.05(c)(1a).

When a loan officer ceases to be employed by a mortgage broker or mortgage banker licensed under this Article, the loan officer and the mortgage broker or mortgage banker licensed under this Article by whom that person is employed shall promptly notify the Commissioner in writing. When the authority of an exclusive mortgage broker to act on behalf of the principal licensee or exempt person identified in G.S. 53-243.05(c)(1a) has been terminated, the exclusive mortgage broker and the licensee or exempt person for whom the exclusive mortgage broker is an agent shall promptly notify the Commissioner in writing. The mortgage broker, mortgage banker, or exempt person's notice shall include a statement of the specific reason or reasons for, as applicable, the termination of the loan officer's employment or exclusive mortgage broker's authority.

A loan officer shall not be employed simultaneously by more than one mortgage broker or mortgage banker licensed under this Article."

SECTION 8. G.S. 53-243.05(a)(6) reads as rewritten:

"(6) The applicant's consent to a federal and State criminal history record check and a set of the applicant's fingerprints in a form acceptable to the Commissioner. In the case of an applicant that is a corporation, partnership, limited liability company, association, or trust, each individual who has control of the applicant or who is the managing principal or a branch manager shall consent to a federal and State criminal history record check and submit a set of that individual's fingerprints pursuant to this subdivision. Refusal to consent to a criminal history record check ~~may constitute~~ constitutes grounds for the Commissioner to deny licensure to the ~~applicant~~ applicant as well as to any entity (i) by whom or by which the applicant is employed, (ii) over which the applicant has control, or (iii) as to which the applicant is the current or proposed managing principal or a current or proposed branch manager."

SECTION 9. G.S. 53-243.06(b1) reads as rewritten:

"(b1) When required by the Commissioner, ~~the licensee~~ each individual described in G.S. 53-245.05(a)(6) shall furnish to the Commissioner the licensee's ~~his or her~~ consent to a criminal history record check and a set of ~~the licensee's~~ his or her fingerprints in a form acceptable to the Commissioner. Refusal to consent to a criminal history record check may constitute grounds for the Commissioner to deny renewal of

licensure to the licensee, the license of the person as well as the license of any other person by which he or she is employed, over which he or she has control, or as to which he or she is the current or proposed managing principal or a current or proposed branch manager."

SECTION 10. G.S. 53-243.11 is amended by adding a new subdivision to read:

"(12) To fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2605 and § 2609, and regulations adopted thereunder by the Secretary of the Department of Housing and Urban Development."

SECTION 11. G.S. 53-243.12(a)(2) reads as rewritten:

- "(2) That any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan officer, managing broker, ~~principal~~, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling the applicant or licensee. The person:
- a. Has filed an application for license that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.
 - b. Has violated or failed to comply with any provision of this Article, rule adopted by the Commissioner, or order of the Commissioner.
 - c. Has been convicted of any felony, or, within the past 10 years, has been convicted of any misdemeanor involving mortgage lending or any aspect of the mortgage lending business, or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.
 - d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the mortgage lending business.
 - e. Is the subject of an order of the Commissioner denying, suspending, or revoking that person's license as a mortgage broker or mortgage banker.
 - f. Is the subject of an order entered within the past five years by the authority of any state with jurisdiction over that state's mortgage brokerage or mortgage banking industry denying or revoking that person's license as a mortgage broker or mortgage banking industry or denying or revoking that person's license as a mortgage broker or mortgage banker.
 - g. Does not meet the qualifications or the financial responsibility, character, or general fitness requirements under G.S. 53-243.05 or any bond or capital requirements under this Article.
 - h. Has been the executive officer or controlling shareholder or owned a controlling interest in any mortgage broker or

mortgage banker who has been subject to an order or injunction described in sub-subdivision d., e., or f. of this subdivision.

- i. Has failed to pay the proper filing or renewal fee under this Article. However, the Commissioner may enter only a denial order under this sub-subdivision, and the Commissioner shall vacate the order when the deficiency has been corrected."

SECTION 12. G.S. 53-243.12(g) reads as rewritten:

"(g) If the Commissioner has reasonable grounds to believe that a licensee or other person has violated the provisions of this Article or that facts exist that would be the basis for an order against a licensee or other person, the Commissioner may at any time, either personally or by a person duly designated by the Commissioner, investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of any licensee or other person relating to the complaint or matter under investigation. The Commissioner may require any licensee or other person to submit a consent to a criminal history record check and a set of that person's fingerprints in a form acceptable to the Commissioner in connection with any examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints shall be grounds for disciplinary action. The reasonable cost of this investigation or examination shall be charged against the licensee."

SECTION 13. G.S. 53-243.12(k) reads as rewritten:

"(k) If the Commissioner finds that the managing principal, branch manager, or loan officer of a licensee had knowledge of or reasonably should have had knowledge of, or participated in, any activity that results in the entry of an order under this section suspending or withdrawing the license of a licensee, the Commissioner may prohibit the branch manager, managing broker-principal, or loan officer from serving as a branch manager, managing broker-principal, or loan officer for any period of time the Commissioner deems necessary."

SECTION 14. G.S. 53-243.16 reads as rewritten:

"§ 53-243.16. Criminal history record checks.

(a) The Department of Justice may provide a criminal record check to the Commissioner for ~~a~~any person who has applied for or holds a mortgage banker, mortgage broker, exclusive mortgage broker, or loan officer license through the Commissioner under this Article.

(b) In addition, if a person described in subsection (a) of this section is a corporation, partnership, limited liability company, association, or trust, the Department of Justice may provide a criminal history record check to the Commissioner for any person who has control of that person, or who is the managing principal or a branch manager of that person.

(c) The Commissioner shall provide to the Department of Justice, along with the request, the fingerprints of the ~~applicant, person,~~ any additional information required by the Department of Justice, and a form signed by the ~~applicant person~~ 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 person'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 Commissioner shall keep all information pursuant to this section 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 a fee for each ~~applicant~~person for conducting the checks of criminal history records authorized by this section."

SECTION 15. G.S. 53-257(6) reads as rewritten:

"(6) Reverse mortgage loan or loan. – A loan for a definite or indefinite term (i) secured by a first mortgage or first deed of trust on the principal residence of the ~~mortgagor~~mortgagor located in North Carolina, (ii) the proceeds of which are disbursed to the mortgagor in one or more lump sums, or in equal or unequal installments, either directly by the lender or the lender's agent, and (iii) that requires no repayment until a future time, upon the earliest occurrence of one or more events specified in the reverse mortgage loan contract."

SECTION 16. G.S. 53-258 reads as rewritten:

"§ 53-258. Authority and procedures governing reverse mortgage loans.

(a) ~~No~~Except as provided in subsection (b1) of this section, no person, firm, or corporation shall engage in the business of making reverse mortgage loans without first being approved as an authorized reverse mortgage lender by the Commissioner, unless the lender is the North Carolina Housing Finance Agency, or is a bank, savings institution, or credit union authorized to do business under the laws of this State or authorized to do business under the laws of the United States and chartered to do business in this State. Commissioner. Mortgage lenders licensed under Article 19A of this Chapter must also be authorized under this Article before making reverse mortgage loans.

(b) An application for authorization to make reverse mortgage loans shall be in writing to the Commissioner and in the form prescribed by the Commissioner. The application shall contain the name and complete business address or addresses of the applicant. The application shall also include affirmation of financial solvency and all capitalization requirements that are required by the Commissioner. The application shall be accompanied by a nonrefundable fee, payable to the Commissioner, of five hundred dollars (\$500.00).

(b1) Each of the following lenders shall be considered authorized to engage in the business of making reverse mortgage loans without being required to apply pursuant to subsection (b) of this section and may represent to the public that it is so authorized:

- (1) The North Carolina Housing Finance Agency.
- (2) A bank, savings institution, or credit union formed under the laws of this or any other state or of the United States.
- (3) A wholly owned subsidiary of an entity described in subdivision (2) of this subsection.

Each lender listed in this subsection may, upon written request to the Commissioner of Banks, obtain written confirmation of its authority to engage in the business of making reverse mortgage loans. In the case of lenders listed in subdivisions (2) and (3) of this subsection, the request shall be accompanied by the fee set forth in subsection (d) of this section.

~~(c) The North Carolina Housing Finance Agency, and any bank, savings institution, or credit union that is not required to obtain authorization to make reverse mortgage loans under subsection (a) of this section, shall, prior to making any reverse mortgage loan, notify the Commissioner of its intent to make reverse mortgage loans.~~

~~This notification shall be made on a form prescribed by the Commissioner and shall contain all information required by the Commissioner.~~

(d) The Commissioner shall, upon determination that ~~a lender~~ an applicant should be authorized to make reverse mortgage loans, issue notice of this authority to the lender. The authority to issue reverse mortgage loans is valid for the period of time specified by the Commissioner. A lender to whom a notice of authority is issued shall display the notice prominently in any and all offices of the lender that make reverse mortgage loans. Authorizations issued under this section are ~~nontransferable and subject to nontransferable~~. Except for lenders described in subsection (b1) of this section, each lender to which an authorization is issued shall pay an annual renewal fee of two hundred fifty dollars (\$250.00)."

SECTION 17. The Legislative Research Commission shall undertake a comprehensive study of those laws, including Chapters 53, 54B, and 54C of the General Statutes, which affect the establishment and operation of banks in North Carolina and shall make recommendations to the 2005 General Assembly, prior to the convening of the 2006 Regular Session as to which laws (i) are obsolete, unnecessary, or duplicative, (ii) are unnecessarily inconsistent in the treatment of banks, savings and loan associations, and savings banks, and (iii) unnecessarily restrict, impede, or prohibit activities of banks, savings and loan associations, and savings banks or the ability of the Commissioner of Banks to regulate banks and savings institutions in an effective, efficient, and equitable manner.

In preparing its recommendations, the Commission shall actively solicit and consider information received from representatives of banks, savings and loan associations, savings banks, the State Banking Commission, the Commissioner of Banks and the Commissioner's staff, other interested parties, and the general public.

SECTION 18. This act becomes effective October 1, 2004, and applies to acts occurring and transactions or agreements entered into on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2004.

Became law upon approval of the Governor at 4:59 p.m. on the 2nd day of August, 2004.

H.B. 965

Session Law 2004-172

AN ACT TO PROVIDE PENALTIES FOR PERSONS WHO CAUSE SERIOUS BODILY INJURY WHEN FAILING TO YIELD THE RIGHT-OF-WAY UNDER CERTAIN CIRCUMSTANCES; TO CLARIFY WHEN A PEDESTRIAN HAS THE RIGHT-OF-WAY AT AN INTERSECTION WHERE TRAFFIC IS ALLOWED TO TURN RIGHT ON A RED LIGHT, TO INCREASE THE PENALTY FOR FAILURE TO YIELD THE RIGHT-OF-WAY TO A PEDESTRIAN WHEN TURNING RIGHT AT A RED LIGHT; TO INCREASE THE DRIVERS LICENSE POINTS ASSESSED FOR FAILURE TO YIELD THE RIGHT-OF-WAY TO A BICYCLE, MOTOR SCOOTER, MOTORCYCLE, OR PEDESTRIAN; AND TO COLLECT DATA REGARDING PEDESTRIAN ACCIDENTS WHERE VEHICLES ARE TURNING RIGHT AT A RED LIGHT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-160.1. Failure to yield causing serious bodily injury; penalties.

(a) Unless the conduct is covered under some other law providing greater punishment, a person who commits the offense of failure to yield while approaching or entering an intersection, turning at a stop or yield sign, entering a roadway, upon the approach of an emergency vehicle, or at highway construction or maintenance shall be punished under this section. When there is serious bodily injury but no death resulting from the violation, the violator shall be fined five hundred dollars (\$500.00) and the violator's drivers license or commercial drivers license shall be suspended for 90 days.

(b) As used in this section, 'serious bodily injury' means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty."

SECTION 2. G.S. 20-158(b) reads as rewritten:

"(b) Control of Vehicles at Intersections. –

(1) When a stop sign has been erected or installed at an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to vehicles operating on the designated main-traveled or through highway. When stop signs have been erected at three or more entrances to an intersection, the driver, after stopping in obedience thereto, may proceed with caution.

(2) ~~Vehicles facing a red light controlling traffic passing straight through an intersection from a steady or strobe beam stoplight shall not enter the intersection while the steady or strobe beam stoplight is emitting a red light controlling traffic passing straight through an intersection; provided that, except where prohibited by an appropriate sign, vehicular traffic facing a red light controlling traffic passing straight through an intersection, after coming to a complete stop at the intersection, may enter the intersection to make a right turn but such vehicle shall yield the right of way to pedestrians and to other traffic using the intersection.~~

a. When a steady or strobe beam stoplight is emitting a red light controlling traffic passing through an intersection, an approaching vehicle facing the red light shall come to a stop and shall not enter the intersection. After coming to a complete stop and unless prohibited by an appropriate sign, that approaching vehicle may make a right turn.

b. Any vehicle that turns right under this subdivision shall yield the right-of-way to:

1. Other traffic and pedestrians using the intersection; and
2. Pedestrians who are moving towards the intersection, who are in reasonably close proximity to the intersection, and who are preparing to cross in front of the traffic that is required to stop at the red light.

c. Failure to yield to a pedestrian under this subdivision shall be an infraction, and the court may assess a penalty of not more than five hundred dollars (\$500.00) and not less than one hundred dollars (\$100.00).

(2a) ~~When the a stoplight is emitting a steady yellow circular light on a traffic signal controlling traffic passing straight through an intersection~~

or a steady yellow arrow light on a traffic signal controlling traffic turning at an intersection, vehicles facing the yellow light are warned that the related green light is being terminated or a red light will be immediately forthcoming. When the stoplight is emitting a steady green light, vehicles may proceed with due care through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.

- (3) When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The right to proceed shall be subject to the rules applicable to making a stop at a stop sign.
- (4) When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow flashing light may proceed through the intersection with caution, yielding the right-of-way to vehicles in or approaching the intersection.
- (5) When a stop sign, stoplight, flashing light, or other traffic-control device authorized by subsection (a) of this section requires a vehicle to stop at an intersection, the driver shall stop (i) at an appropriately marked stop line, or if none, (ii) before entering a marked crosswalk, or if none, (iii) before entering the intersection at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street."

SECTION 3. G.S. 20-16(c) reads as rewritten:

"(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus	5
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on wrong side of road	4
Illegal passing	4
<u>Failure to yield right-of-way to pedestrian pursuant to G.S. 20-158(b)(2)b.</u>	<u>4</u>
<u>Failure to yield right-of-way to bicycle, motor scooter, or motorcycle</u>	<u>4</u>
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3

No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3
Failure to report accident where such report is required	3
Speeding in a school zone in excess of the posted school zone speed limit	3
Failure to properly restrain a child in a restraint or seat belt	2
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1
Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle	
Passing stopped school bus	8
Rail-highway crossing violation	6
Careless and reckless driving in violation of G.S. 20-140(f)	6
Speeding in violation of G.S. 20-141(j3)	6
Reckless driving	5
Hit and run, property damage only	5
Following too close	5
Driving on wrong side of road	5
Illegal passing	5
<u>Failure to yield right-of-way to pedestrian</u> <u>pursuant to G.S. 20-158(b)(2)b.</u>	5
<u>Failure to yield right-of-way to bicycle,</u> <u>motor scooter, or motorcycle</u>	5
Running through stop sign	4
Speeding in excess of 55 miles per hour	4
Failing to yield right-of-way	4
Running through red light	4
No driver's license or license expired more than one year	4
Failure to stop for siren	4
Driving through safety zone	4
No liability insurance	4
Failure to report accident where such report is required	4
Speeding in a school zone in excess of the posted school zone speed limit	4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle	4
All other moving violations	3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a

public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

- Overloads
- Over length
- Over width
- Over height
- Illegal parking
- Carrying concealed weapon
- Improper plates
- Improper registration
- Improper muffler
- Improper display of license plates or dealers' tags
- Unlawful display of emblems and insignia
- Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation."

SECTION 4. The North Carolina Rate Bureau shall assign one insurance point under the Safe Driver Incentive Plan for persons who fail to yield to a pedestrian under G.S. 20-158(b)(2)b.

SECTION 5. The Department of Transportation shall collect data regarding the number of individuals who are found responsible for violations of G.S. 20-158(b)(2)b. and the number of pedestrians who are involved in accidents at intersections because of a driver's failure to yield the right-of-way while turning right at a red light. The data shall include information regarding the number of disabled pedestrians, including individuals with visual or mobility-related disabilities, who are involved in right turn on red accidents. The Department shall report the data annually to the Joint Legislative Transportation Oversight Committee beginning January 1, 2006.

SECTION 6. The Department of Transportation, as part of any regularly scheduled updates, shall revise the written portion of the drivers license examination and any publications related to obtaining a drivers license to reflect the changes in Sections 1, 2, and 3 of this act.

SECTION 7. The Department of Transportation, counties, and municipalities are encouraged to provide public service announcements on television and radio informing the public of the provisions of this act. The public service announcements should be scheduled to occur during times most likely to reach a broad audience.

SECTION 8. This act becomes effective December 1, 2004, and applies to violations committed on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2004.

Became law upon approval of the Governor at 5:00 p.m. on the 2nd day of August, 2004.

S.B. 277**Session Law 2004-173**

AN ACT TO EXEMPT FROM PROPERTY TAX EDUCATIONAL PROPERTY HELD BY A NONPROFIT ENTITY FOR A PUBLIC OR PRIVATE UNIVERSITY OR COMMUNITY COLLEGE LOCATED IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-278.4 reads as rewritten:

"§ 105-278.4. Real and personal property used for educational purposes.

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation ~~if~~ if all of the following requirements are met:

- (1) Owned by an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution); either of the following:
 - a. An educational institution; or
 - b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;
- (2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;

- (3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (4) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution ~~(as defined herein)~~ and wholly and exclusively used by the occupant for nonprofit educational purposes.

(b) Land. – Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by such improvements, and additional land reasonably necessary for the convenient use of any such improvement shall be exempted from taxation if:

- (1) Owned by an educational institution that owns real property entitled to exemption under the provisions of subsection (a), above;
- (2) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (3) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.

(c) Partial Exemption. – Notwithstanding the exclusive-use requirements of subsections (a) and (b), above, if part of a property that otherwise meets the requirements of one of those subsections is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(d) Public Use. – The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, ~~shall~~does not defeat the exemption granted by this section.

(e) Personal Property. – Personal property owned by a church, a religious body, or an educational institution ~~(including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution)~~ shall be exempted from taxation if:

- (1) The owner is not organized or operated for profit, and no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and
- (2) Used wholly and exclusively for educational purposes by the owner or held gratuitously by a church, religious body, or nonprofit educational institution ~~(as defined herein)~~ other than the owner, and wholly and exclusively used for nonprofit educational purposes by the possessor.

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

- (1) Educational institution. – The term includes a university, a college, a school, a seminary, an academy, an industrial school, a public library, a museum, and similar institutions.
- (2) Educational purpose. – A purpose ~~An educational purpose within the meaning of this section is one~~ that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills

of individual persons. The operation of a student housing facility, a student dining facility, a golf course, a tennis court, a sports arena, a similar sport property, or a similar recreational sport property for the use of students or faculty is also an educational purpose, regardless of the extent to which the property is also available to and patronized by the general public."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2004.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 5:01 p.m. on the 2nd day of August, 2004.

H.B. 356**Session Law 2004-174**

AN ACT TO AMEND THE AUTHORITY OF THE NORTH CAROLINA STATE BAR CONCERNING PARALEGALS AND FEES RELATING TO CERTIFICATION AND TO EXTEND THE SUNSET OF THE INDUSTRIAL COMMISSION FEE EARMARKED FOR INFORMATION TECHNOLOGY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-23 reads as rewritten:

"§ 84-23. Powers of Council.

(a) ~~Subject to the superior authority of the General Assembly to legislate thereon by general law, and except as herein otherwise limited, the~~ The Council is hereby vested, as an agency of the State, with the authority to regulate the professional conduct of licensed ~~attorneys,~~ lawyers and State Bar certified paralegals. Among other powers, the Council shall administer this Article; take actions that are necessary to ensure the competence of ~~lawyers;~~ lawyers and State Bar certified paralegals; 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;~~ specialists and paralegals and charge fees to applicants and participants necessary to administer these certification programs; determine whether a member is disabled; and formulate and adopt procedures for accomplishing these purposes. The Council may do all things necessary in the furtherance of the purposes of this Article that are not otherwise prohibited by law.

(b) ~~The Council or any committee thereof, of the Council, including the Client Security Fund and the Disciplinary Hearing Commission or any committee thereof, of the Commission, shall have the authority to~~ may subpoena financial records of any licensed ~~attorneys, attorneys~~ lawyers, lawyers whose licenses have been suspended, or disbarred ~~attorneys, lawyers,~~ relating to any account into which client or fiduciary funds have been deposited.

(c) The Council may publish an official journal concerning matters of interest to the legal ~~profession and profession.~~

(d) The Council 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 may utilize the services of the Purchase and Contract Division of the Department of Administration for the procurement of to procure 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. Statutes."~~

SECTION 2. G.S. 84-37 reads as rewritten:

"§ 84-37. State Bar may investigate and enjoin unauthorized practice, activities.

(a) The Council or any committee appointed by it for that purpose may inquire into and investigate any charges or complaints of (i) unauthorized or unlawful practice of law, law or (ii) the use of the designations, "North Carolina Certified Paralegal," "North Carolina State Bar Certified Paralegal," or "Paralegal Certified by the North Carolina State Bar Board of Paralegal Certification," by individuals who have not been certified in accordance with the rules adopted by the North Carolina State Bar. The Council or any committee of its members appointed for that purpose may inquire into and investigate any charges or complaints of unauthorized or unlawful practice of law. The Council may bring or cause to be brought and ~~maintain~~ maintained in the name of the North Carolina State Bar an action or actions, upon information or upon the complaint of any person or entity against any person or entity that engages in rendering any legal ~~service~~ service, holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in this subsection, or makes it a practice or business to render legal services ~~which that~~ are unauthorized or prohibited by law or statutes relative thereto.law. No bond for cost shall be required in the proceeding.

(b) In an action brought under this ~~section~~ section, the final judgment if in favor of the plaintiff shall perpetually restrain the defendant or defendants from the commission or continuance of the unauthorized or unlawful act or acts ~~complained of:acts.~~ A temporary injunction to restrain the commission or continuance ~~thereof~~ of the act or acts may be granted upon proof or by affidavit, that the defendant or defendants have violated any of the ~~laws or statutes~~ laws applicable to unauthorized or unlawful practice of ~~law, law~~ or the unauthorized use of the designations set forth in subsection (a) of this section or any other designation implying certification by the State Bar. The provisions of ~~statute or rules~~ law relating generally to injunctions as provisional remedies in actions shall apply to a temporary injunction and the proceedings ~~thereunder.~~ for temporary injunctions.

(c) The venue for actions brought under this section shall be the superior court of any county in which the relevant acts ~~constituting unauthorized or unlawful practice of law~~ are alleged to have been committed or in which there appear reasonable grounds that they will be ~~committed~~ committed or in the county where the defendants in the action ~~reside~~ reside, or in Wake County.

(d) The plaintiff in the action shall be entitled to ~~examination of~~ examine the adverse party and witnesses before filing complaint and before trial in the same manner as provided by law for ~~the examination of~~ examining parties.

(e) This section shall not repeal or ~~curtail~~ limit any remedy now provided in cases of unauthorized or unlawful practice of ~~law, and nothing~~ law. Nothing contained ~~herein~~ in this section shall be construed as disabling or abridging the inherent powers of the court in these matters.

(f) The Council or its duly appointed committee ~~has the authority to~~ may issue advisory opinions in response to inquiries from members or the public regarding whether contemplated conduct would constitute the unauthorized practice of law."

SECTION 3. Section 12.6C(e) of S.L. 2003-284 reads as rewritten:

"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~~ until the 2009-2011 fiscal biennium."

SECTION 4. This act becomes effective October 1, 2004.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 5:01 p.m. on the 2nd day of August, 2004.

H.B. 1463

Session Law 2004-175

AN ACT TO ESTABLISH THE NORTH CAROLINA HEALTH INSURANCE INNOVATIONS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Findings and Purpose. – The General Assembly finds that a crisis exists in the availability and affordability of adequate health insurance coverage for small business owners and employees in this State. These findings indicate that greater than fifty percent (50%) of the statewide workforce is employed by small business, that there are 1,154,000 North Carolinians who are not covered by health insurance, and that more than sixty percent (60%) of these citizens either own or work for a small business, or are the dependent of a small business owner or employee. The findings further indicate that 16 health insurance carriers left the North Carolina small group health coverage market in 2001, an all-time high, that virtually no small group health insurance carriers have entered the North Carolina market in the last two years, and that dramatic increases in premium rates are the primary reason for the alarming decrease in availability of health insurance coverage for small business. The purpose of this act is to quickly and effectively address this crisis through the collaborative efforts of persons involved in and affected by the declining availability of health insurance for the State's small employer workforce. It is the intent of the General Assembly to achieve this purpose through the establishment of the North Carolina Health Insurance Innovations Commission in accordance with this act.

SECTION 2. Commission Established. – There is established the North Carolina Health Insurance Innovations Commission. The Commission shall consist of 28 members, appointed as follows:

- (1) Fourteen members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. Of these appointments:
 - a. Two shall be physicians licensed to practice in this State.
 - b. One shall represent health insurers.
 - c. Two shall represent hospitals located in this State.
 - d. One shall represent businesses with fewer than 50 employees and one shall represent businesses with 50 or more employees.
 - e. One shall be a person without health insurance or an advocate for uninsured persons.
 - f. One shall represent insurance brokers or agents.
 - g. One shall be a member of the Health and Wellness Trust Fund Commission, as established in G.S. 147-86.32.

The Speaker shall designate a co-chair.

- (2) Fourteen members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. Of these appointments:
- a. One shall represent physicians licensed to practice in this State.
 - b. Two shall represent health insurers.
 - c. One shall represent hospitals located in this State.
 - d. One shall represent businesses with fewer than 50 employees and one shall represent businesses with 50 or more employees.
 - e. One shall be a person without health insurance or an advocate of uninsured persons.
 - f. One shall represent health researchers and policy experts.
 - g. One shall represent nurses.
 - h. One shall be a member of the Health and Wellness Trust Fund Commission, as established in G.S. 147-86.32.

The President Pro Tempore shall appoint a co-chair.

The appointing authorities shall ensure that appointments reflect representation among the regions of the State.

SECTION 3.(a) Commission Duties and Responsibilities. – The Commission shall do the following:

- (1) Adopt procedures and implement other administrative requirements necessary to carry out its duties under this act.
- (2) Identify and evaluate comprehensively the problems small employers face when they attempt to obtain health insurance coverage for themselves and their employees and consider the impact these problems have for large employees and the communities they serve.
- (3) Initiate regional demonstration projects to pilot innovative health care plans and products to address the problems identified. Innovative products may include piloted community education programs targeted at top illnesses in an effort to increase early detection of these illnesses. Innovative plans may also include piloted programs targeted at increasing the demand for health insurance coverage by both employers and employees through the use of policy incentives. Innovative plans and products are subject to the approval of the Commissioner of Insurance as provided in Section 5 of this act.
- (4) Develop clear and substantive recommendations for actions that must be taken by health insurance carriers, health care providers, government, small business employers, large business employers, consumers, and consumer groups, in order to improve the availability and affordability of small employer health insurance coverage within the next three years.
- (5) Provide a report on the Commission's activities to the 2005 General Assembly, Regular Session 2006, upon its convening. Reports to the General Assembly shall include proposed legislation necessary to carry out the purposes of this act.

SECTION 3.(b) The Commission shall consider the following issues and strategies in developing regional demonstration projects and other approaches to address the rising cost of health care:

- (1) Feasibility of establishing chronic disease management programs similar to those that are working successfully in this State and other states.
- (2) The cost-effectiveness of existing and proposed health insurance coverage mandates.
- (3) Promoting collaboration among providers, insurers, government agencies, and consumers to improve health care affordability.
- (4) Promoting consumer education about available insurance products and promoting education of small business owners about the available insurance products, available services to assist them in understanding and selecting appropriate insurance plans, and current small business tax benefits regarding health insurance deductions.
- (5) Review and evaluate "consumer driven" benefit plans.
- (6) Increasing efforts and resources to educate and motivate consumers to use health care resources appropriately.
- (7) Rewarding technological innovation based in quality and evidence-based outcomes that provide increased value to consumers over existing treatments.
- (8) Encourage case management of high utilizers.
- (9) Promoting evidence-based medicine.

SECTION 4. Meetings; Staff; Funding. – Members shall serve an initial two-year term and may be reappointed for an additional two-year term. The Commission shall secure federal or private funds to conduct meetings, hire professional staff, support demonstration plans and products, and cover any other costs incurred by the Commission in carrying out its duties under this act. The Department of Insurance shall, at the request of the Commission, provide technical assistance in the preparation of grant proposals for federal and other non-State funding to support the work of the Commission, in the preparation of forms, and in other related matters. The Commission may meet in the Legislative Building or the Legislative Office Building, as approved by the Legislative Services Commission, or at any other location deemed appropriate by the Health Insurance Innovations Commission. The Commission may enter into agreements and allocate federal or private funds obtained by the Commission with the University of North Carolina at Charlotte and other public or private entities to provide meeting space, professional services and support staff, and other services necessary for the Commission to carry out its duties and responsibilities under this act.

SECTION 5. Temporary Rules. – The Commissioner of Insurance shall review all pilot programs and innovative plans and products proposed by the North Carolina Health Insurance Innovations Commission. If the Commissioner determines that the proposed programs, plans, or products are in the interest of the citizens of this State and are not contrary to the public policy of this State, then the Commissioner may approve them. If the approved programs, plans, or products are in conflict with or contrary to rules adopted by the Commissioner, the Commissioner may adopt temporary rules to allow implementation of the programs, plans, or products. Any new program, plan, or product shall be reported to the Joint Legislative Commission on Governmental Operations 30 days prior to its implementation. Nothing herein shall be deemed to increase the power of the Commissioner as otherwise authorized by law.

SECTION 6. Funds obtained by the North Carolina Health Innovations Commission for operations and programs of the Commission shall be deposited with the State Treasurer for credit to the Legislative Services Office. The Legislative Services

Office shall allocate these funds for reimbursement to the Commission for operation and program costs incurred.

SECTION 7. Nothing in this act obligates the General Assembly to appropriate funds to implement this act. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 5:03 p.m. on the 2nd day of August, 2004.

H.B. 1112

Session Law 2004-176

AN ACT TO IMPLEMENT REQUIREMENTS APPLICABLE TO NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND ANIMAL WASTE MANAGEMENT PLANS GOVERNING ANIMAL FEEDING OPERATIONS TO MAKE THE STATE PERMIT REQUIREMENTS CONSISTENT WITH FEDERAL REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10B reads as rewritten:

"§ 143-215.10B. Definitions.

As used in this Part:

- (1) "Animal operation" means any agricultural ~~farming~~-feedlot activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management ~~system~~-system, or any agricultural feedlot activity with a liquid animal waste management system that discharges to the surface waters of the State. A public livestock market regulated under Article 35 of Chapter 106 of the General Statutes is an animal operation for purposes of this Part.
- (2) "Animal waste" means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation.
- (3) "Animal waste management system" means a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.
- (4) "Division" means the Division of Water Quality of the Department.
- (5) "Feedlot" means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Part.

- (6) "Technical specialist" means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans."

SECTION 2. G.S. 143-215.10C reads as rewritten:

"§ 143-215.10C. Applications and permits.

(a) No person shall construct or operate an animal waste management system for an animal operation or operate an animal waste management system for a dry litter poultry facility that is subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003) without first obtaining an individual permit or a general permit under this Article. The Commission shall develop a system of individual and general permits for animal operations and dry litter poultry facilities based on species, number of animals, and other relevant factors. It is the intent of the General Assembly that most animal waste management systems be permitted under a general permit. The Commission, in its discretion, may require that an animal waste management system be permitted under an individual permit if the Commission determines that an individual permit is necessary to protect water quality, public health, or the environment. The owner or operator of an animal operation shall submit an application for a permit at least 180 days prior to construction of a new animal waste management system or expansion of an existing animal waste management system and shall obtain the permit prior to commencement of the construction or expansion. The owner or operator of a dry litter poultry facility that is subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003) shall submit an application for a permit at least 180 days prior to operation of a new animal waste management system.

(a1) An owner or operator of an animal waste management system for an animal operation or a dry litter poultry facility that is subject to regulation under 40 Code of Federal Regulations § 122.23(c)(3) (1 July 2003) shall apply for an individual permit or a general permit under this Article within 90 days of notification by the Department that the facility is subject to regulation under 40 Code of Federal Regulations § 122.23(c)(3) (1 July 2003).

(b) An animal waste management system shall be designed, constructed, and operated so that the animal operation served by the animal waste management system does not cause pollution in the waters of the State except as may result because of rainfall from a storm event more severe than the 25-year, 24-hour ~~storm-storm~~ or if required by 40 Code of Federal Regulations § 122.23 (1 July 2003) from a storm event more severe than the 100-year, 24-hour storm.

(c) The Commission shall act on a permit application as quickly as possible and may conduct any inquiry or investigation it considers necessary before acting on an application.

(d) All applications for permits or for renewal of an existing permit shall be in writing, and the Commission may prescribe the form of the applications. All applications shall include an animal waste management system plan approved by a technical specialist. The Commission may require an applicant to submit additional information the Commission considers necessary to evaluate the application. Permits and renewals issued pursuant to this section shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission.

(e) An animal ~~Animal~~-waste management ~~plans~~ plan for an animal operation shall include all of the following components:

- (1) A checklist of potential odor sources and a choice of site-specific, cost-effective remedial best management practices to minimize those sources.
 - (2) A checklist of potential insect sources and a choice of site-specific, cost-effective best management practices to minimize insect problems.
 - (3) Provisions that set forth acceptable methods of disposing of mortalities.
 - (4) Provisions regarding best management practices for riparian buffers or equivalent controls, particularly along perennial streams.
 - (5) Provisions regarding the use of emergency spillways and site-specific emergency management plans that set forth operating procedures to follow during emergencies in order to minimize the risk of environmental damage.
 - (6) Provisions regarding periodic testing of waste products used as nutrient sources as close to the time of application as practical and at least within 60 days of the date of application and periodic testing, at least annually, of soils at crop sites where the waste products are applied. Nitrogen shall be ~~the~~ a rate-determining element. Phosphorus shall be evaluated according to the nutrient management standard approved by the Soil and Water Conservation Commission and the Natural Resources Conservation Service of the United States Department of Agriculture for facilities that are subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003). If the evaluation demonstrates the need to limit the application of phosphorus in order to comply with the nutrient management standard, then phosphorus shall be a rate-determining element. Zinc and copper levels in the soils shall be monitored, and alternative crop sites shall be used when these metals approach excess levels.
 - (7) Provisions regarding waste utilization plans that assure a balance between nitrogen application rates and nitrogen crop requirements, that assure that lime is applied to maintain pH in the optimum range for crop production, and that include corrective action, including revisions to the waste utilization plan based on data of crop yields and crops analysis, that will be taken if this balance is not achieved as determined by testing conducted pursuant to subdivision (6) of this subsection.
 - (8) Provisions regarding the completion and maintenance of records on forms developed by the Department, which records shall include information addressed in subdivisions (6) and (7) of this subsection, including the dates and rates that waste products are applied to soils at crop sites, and shall be made available upon request by the Department.
- (f) ~~Any owner or operator of an animal operation with a dry litter animal waste management system involving~~ of a dry litter poultry facility that is not subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003) but that involves 30,000 or more birds shall develop an animal waste management plan that complies with the testing and record-keeping requirements under subdivisions (6) through (8) of subsection (e) of this section. Any operator of this type of animal waste

management system shall retain records required under this section and by the Department on-site for three years.

(f1) An animal waste management plan for a dry litter poultry facility subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003) shall include the components set out in subdivisions (3), (6), (7), and (8) of subsection (e) of this section, and to the extent required by 40 Code of Federal Regulations § 122.23 (1 July 2003) for land application discharges, subdivision (4) of subsection (e) of this section.

(g) The Commission shall encourage the development of alternative and innovative animal waste management technologies. The Commission shall provide sufficient flexibility in the regulatory process to allow for the timely evaluation of alternative and innovative animal waste management technologies and shall encourage operators of animal waste management systems to participate in the evaluation of these technologies. The Commission shall provide sufficient flexibility in the regulatory process to allow for the prompt implementation of alternative and innovative animal waste management technologies that are demonstrated to provide improved protection to public health and the environment.

(h) The owner or operator of an animal waste management system shall:

- (1) In the event of a discharge of 1,000 gallons or more of animal waste to the surface waters of the State, issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge. The owner or operator shall issue the press release within 48 hours after the owner or operator has determined that the discharge has reached the surface waters of the State. The owner or operator shall retain a copy of the press release and a list of the news media to which it was distributed for at least one year after the discharge and shall provide a copy of the press release and the list of the news media to which it was distributed to any person upon request.
- (2) In the event of a discharge of 15,000 gallons or more of animal waste to the surface waters of the State, publish a notice of the discharge in a newspaper having general circulation in the county in which the discharge occurs and in each county downstream from the point of discharge that is significantly affected by the discharge. The Secretary shall determine, at the Secretary's sole discretion, which counties are significantly affected by the discharge and shall approve the form and content of the notice and the newspapers in which the notice is to be published. The notice shall be captioned "NOTICE OF DISCHARGE OF ANIMAL WASTE". The owner or operator shall publish the notice within 10 days after the Secretary has determined the counties that are significantly affected by the discharge and approved the form and content of the notice and the newspapers in which the notice is to be published. The owner or operator shall file a copy of the notice and proof of publication with the Department within 30 days after the notice is published. Publication of a notice of discharge under this subdivision is in addition to the requirement to issue a press release under subdivision (1) of this subsection.

(i) A person who obtains an individual permit under G.S. 143-215.1 for an animal waste management system that serves a public livestock market shall not be

required to obtain a permit under this Part and is not subject to the requirements of this Part."

SECTION 3. G.S. 143-215.10G reads as rewritten:

"(a) The Department shall charge an annual permit fee of all to an animal operations-operation that are-is subject to a permit under G.S. 143-215.10C for an animal waste management systems-system according to the following schedule:

- (1) For a system with a design capacity of 38,500 or more and less than 100,000 pounds steady state live weight, fifty dollars (\$50.00).
- (2) For a system with a design capacity of 100,000 or more and less than 800,000 pounds steady state live weight, one hundred fifty dollars (\$150.00).
- (3) For a system with a design capacity of 800,000 pounds or more steady state live weight, three hundred dollars (\$300.00).

(a1) The Department shall charge an annual permit fee to a dry litter poultry facility that is subject to a permit under G.S. 143-215.10C for an animal waste management system according to the following schedule:

- (1) For a system with a permitted capacity of less than 25,000 laying chickens, less than 37,500 nonlaying chickens, or less than 16,500 turkeys, fifty dollars (\$50.00).
- (2) For a system with a permitted capacity of 25,000 or more but less than 200,000 laying chickens, 37,500 or more but less than 290,000 nonlaying chickens, 16,500 or more but less than 133,000 turkeys, one hundred fifty dollars (\$150.00).
- (3) For a system with a permitted capacity of more than 200,000 laying chickens, more than 290,000 nonlaying chickens, or more than 133,000 turkeys, three hundred dollars (\$300.00).

(b) An application for a new permit under this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee will be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Fees collected under this section shall be credited to the Water and Air Quality Account. The Department shall use fees collected pursuant to this section to cover the costs of administering this Part."

SECTION 4. An owner or operator of an animal operation or a dry litter poultry facility shall apply for a permit as follows:

- (1) An owner or operator of an animal operation in existence on or before 14 April 2003, and subject to regulation under federal regulations on or before 14 April 2003, shall maintain continuous permit coverage and comply with the phosphorous provisions of the most current nutrient management standard on or before 1 July 2007.
- (2) An owner or operator of a dry litter poultry facility in existence on or before 14 April 2003, and with a poultry population that made it subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003) only after 14 April 2003, shall apply for a permit no later than 13 April 2006.
- (3) An owner or operator of a dry litter poultry facility in existence on or before 14 April 2003, who increases the poultry population of the facility to a number that subjects the facility to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003) after, but not on or

before, 14 April 2003, shall apply for a permit by 13 April 2006, or 90 days after the increase in population, whichever is later.

SECTION 5. The Commission shall consider the factors set out in G.S. 143B-282.1 in any decision as to whether to assess a civil penalty for failure to obtain a permit pursuant to G.S. 143-215.6A(2) against the owner or operator of a dry litter poultry facility that becomes subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003) between 12 April 2003 and 1 January 2005. In determining whether the violation was willful or intentional, the Commission shall consider whether the facility developed an animal waste management plan pursuant to G.S. 143-215.10C(f) based on available guidance on phosphorus and whether the facility complied with its animal waste management plan.

SECTION 6.

- (1) In the event there is a final determination by a court of competent jurisdiction that part or all of the federal regulations governing dry litter poultry facilities are invalid, this act shall not be construed to implement the invalid parts of the regulations or to apply the invalid parts of the regulations to facilities otherwise made subject to those federal regulations.
- (2) This act shall not be construed to affect the provisions 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, Section 1 of S.L. 2001-254, and S.L. 2003-266.
- (3) This act shall not be construed to affect any federal permit requirement that was in effect on or before the date this act becomes effective.

SECTION 7. The Department of Environment and Natural Resources shall evaluate the need for and availability of information that identifies poultry facilities that may be subject to regulation under G.S. 143-215.10C, as amended by Section 2 of this act. If the Department determines that it does not have sufficient identifying information to adequately implement G.S. 143-215.10C, the Department shall evaluate options for obtaining this information. The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before 1 January 2005.

SECTION 8. This act becomes effective 1 January 2005.

In the General Assembly read three times and ratified this the 14th day of July, 2004.

Became law upon approval of the Governor at 5:04 p.m. on the 2nd day of August, 2004.

S.B. 1128

Session Law 2004-177

AN ACT TO AUTHORIZE THE NORTH CAROLINA DEPARTMENT OF JUSTICE TO CHARGE EACH APPLICANT FOR A LOCKSMITH LICENSE OR AN APPRENTICE DESIGNATION A CRIMINAL HISTORY RECORD CHECK FEE AND TO MAKE A TECHNICAL CORRECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74F-6(16) reads as rewritten:

"(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~~G.S. 114-19.15."

SECTION 2. G.S. 74F-18(b) reads as rewritten:

"(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. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

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

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 5:06 p.m. on the 2nd day of August, 2004.

S.B. 1054

Session Law 2004-178

AN ACT TO PROVIDE THAT THE UNLAWFUL DISTRIBUTION OF METHAMPHETAMINE THAT PROXIMATELY RESULTS IN THE DEATH OF A PERSON IS SECOND DEGREE MURDER, TO MAKE IT AN AGGRAVATING FACTOR TO MANUFACTURE METHAMPHETAMINE IN A LOCATION THAT ENDANGERS A CHILD, TO INCREASE THE CRIMINAL PENALTY FOR THE UNLAWFUL MANUFACTURE OF METHAMPHETAMINE, AND TO INCREASE THE CRIMINAL PENALTY FOR THE POSSESSION OF PRECURSOR SUBSTANCES FOR METHAMPHETAMINE, AS RECOMMENDED BY THE JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE, TO REQUIRE THE COMMISSION FOR HEALTH SERVICES TO ESTABLISH DECONTAMINATION STANDARDS FOR PROPERTY USED FOR THE MANUFACTURE OF METHAMPHETAMINE, TO IMPOSE AN ENHANCED SENTENCE FOR CONVICTION OF MANUFACTURE OF METHAMPHETAMINE IF THE OFFENSE RESULTS IN SERIOUS INJURY TO A LAW ENFORCEMENT OFFICER, PROBATION OR PAROLE OFFICER, EMS EMPLOYEE, OR FIREFIGHTER AND TO PROVIDE IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY FOR CERTAIN GOOD FAITH ACTIONS OF A PERSON PARTICIPATING IN A METHAMPHETAMINE WATCH PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-17 reads as rewritten:

"§ 14-17. Murder in the first and second degree defined; punishment.

A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 17 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole. Provided, however, any person under the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or methamphetamine, when the ingestion of such substance causes the death of the user, shall be deemed murder in the second degree, and any person who commits such murder shall be punished as a Class B2 felon."

SECTION 2. G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

"(16a) The offense is the manufacture of methamphetamine and was committed where a person under the age of 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste."

SECTION 3. G.S. 90-95(b) reads as rewritten:

"(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

(1) A controlled substance classified in Schedule I or II shall be punished as a Class H felon, except ~~that as follows:~~ (i) the sale of a controlled substance classified in Schedule I or II shall be punished as a Class G felon; felony, and (ii) the manufacture of methamphetamine shall be punished as provided by subdivision (1a) of this subsection.

(1a) The manufacture of methamphetamine shall be punished as a Class C felony unless the offense was one of the following: packaging or repackaging methamphetamine, or labeling or relabeling the methamphetamine container. The offense of packaging or repackaging methamphetamine, or labeling or relabeling the methamphetamine container shall be punished as a Class H felony.

(2) A controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class I felon, except that the sale of a controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class H felon. The transfer of less than 5 grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1)."

SECTION 4. G.S. 90-95(d1) reads as rewritten:

"(d1) Except as authorized by this Article, it is unlawful for any person to:

- (1) Possess an immediate precursor chemical with intent to manufacture a controlled substance; or
- (2) Possess or distribute an immediate precursor chemical knowing, or having reasonable cause to believe, that the immediate precursor chemical will be used to manufacture a controlled substance.

Any person who violates this subsection shall be punished as a Class H ~~felon~~felon, unless the immediate precursor is one that can be used to manufacture methamphetamine."

SECTION 5. G.S. 90-95 is amended by adding a new subsection to read:

"(d1a) Except as authorized by this Article, it is unlawful for any person to:

- (1) Possess an immediate precursor chemical with intent to manufacture methamphetamine; or
- (2) Possess or distribute an immediate precursor chemical knowing, or having reasonable cause to believe, that the immediate precursor chemical will be used to manufacture methamphetamine.

Any person who violates this subsection shall be punished as a Class F felon."

SECTION 6. G.S. 90-95(d2) reads as rewritten:

"(d2) The immediate precursor chemicals to which subsection (d1) and (d1a) of this section applies are those immediate precursor chemicals designated by the Commission pursuant to its authority under G.S. 90-88, and the following (until otherwise specified by the Commission):

- (1) Acetic anhydride.
- (2) Acetone.
- ~~(4)~~(3) Anhydrous ammonia.
- ~~(1a)~~(4) Anthranilic acid.
- (5) Benzyl chloride.
- ~~(2)~~(6) Benzyl cyanide.
- (7) 2-Butanone (Methyl Ethyl Ketone).
- ~~(3)~~(8) Chloroephedrine.
- ~~(4)~~(9) Chloropseudoephedrine.
- ~~(5)~~(10) D-lysergic acid.
- ~~(6)~~(11) Ephedrine.
- ~~(7)~~(12) Ergonovine maleate.
- ~~(8)~~(13) Ergotamine tartrate.
- (14) Ethyl ether.
- ~~(9)~~(15) Ethyl Malonate.
- ~~(10)~~(16) Ethylamine.
- (17) Gamma-butyrolactone.
- (18) Hydrochloric Acid.
- ~~(10a)~~(19) Iodine.
- ~~(11)~~(20) Isosafrole.
- ~~(11a)~~(21) Lithium.
- ~~(12)~~(22) Malonic acid.
- ~~(13)~~(23) Methylamine.
- (24) Methyl Isobutyl Ketone.
- ~~(14)~~(25) N-acetylanthranilic acid.
- ~~(15)~~(26) N-ethylephedrine.
- ~~(16)~~(27) N-ethylepseudoephedrine.
- ~~(17)~~(28) N-methylephedrine.

- (18)(29) N-methylpseudoephedrine.
- (19)(30) Norpseudoephedrine.
- (20)(31) Phenyl-2-propane.
- (21)(32) Phenylacetic acid.
- (22)(33) Phenylpropanolamine.
- (23)(34) Piperidine.
- (24)(35) Piperonal.
- (25)(36) Propionic anhydride.
- (26)(37) Pseudoephedrine.
- (27)(38) Pyrrolidine.
- (27a)(39) Red phosphorous.
- (28)(40) Safrole.
- (28a)(41) Sodium.
- (42) Sulfuric Acid.
- (43) Tetrachloroethylene.
- (29)(44) Thionylchloride.
- (45) Toluene.
- (30) ~~Gamma-butyrolactone.~~"

SECTION 7. Article 8 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 12. Decontamination Standards for Methamphetamine Sites.

"§ 130A-284. Decontamination of property used for the manufacture of methamphetamine.

For the protection of the public health, the Commission shall adopt rules establishing decontamination standards to ensure that certain property is reasonably safe for habitation. An owner, lessee, operator or other person in control of a residence or place of business or any structure appurtenant to a residence or place of business, and who has knowledge that the property has been used for the manufacture of methamphetamine, shall comply with these rules. For purposes of this section, the terms "residence" and "place of business" shall be defined as set forth in G.S. 130A-334."

SECTION 8. Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1340.16D. Enhanced sentence if defendant is convicted of manufacture of methamphetamine and the offense resulted in serious injury to a law enforcement officer, probation officer, parole officer, emergency medical services employee, or a firefighter.

(a) If a person is convicted of the offense of manufacture of methamphetamine under G.S. 90-95(b)(1a) and it is found as provided in this section that a law enforcement officer, probation officer, parole officer, emergency medical services employee, or a firefighter suffered serious injury while discharging or attempting to discharge his or her official duties and that the injury was directly caused by one of the hazards associated with the manufacture of methamphetamine, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 24 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 24 months, as specified in G.S. 15A-1340.17(e) and (e1).

(b) An indictment or information for the offense of manufacture of methamphetamine under G.S. 90-95(b)(1a) shall allege in that 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 offense of manufacture of methamphetamine and that as a result of the offense a law enforcement officer, probation officer, parole officer, emergency medical services employee, or firefighter suffered serious injury while discharging or attempting to discharge his or her official duties. One pleading is sufficient for all felonies that are tried at a single trial.

(c) The State shall prove the issue set out in subsection (b) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the offense of manufacture of methamphetamine unless the defendant pleads guilty or no contest to the issue. If the defendant pleads guilty or no contest to the offense of manufacture of methamphetamine but pleads not guilty to the issue set out in subsection (b) of this section, then a jury shall be impaneled to determine the issue.

(d) This section does not apply if the offense is packaging or repackaging methamphetamine, or labeling or relabeling the methamphetamine container."

SECTION 9. Chapter 114 of the General Statutes is amended by adding a new article to read:

"Article 7.

"Methamphetamine Watch Program

"§ 114-43. Methamphetamine Watch Program – good faith actions immune from civil and criminal liability.

Anyone who, in good faith, does any of the acts listed in subdivisions (1) through (3) of this section as part of a Methamphetamine Watch Program approved by the Department of Justice is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action. In any proceeding involving liability, good faith is presumed. The actions for which immunity is granted under this section are as follows:

- (1) The person files a report with a law enforcement agency concerning the purchase or theft of ingredients used to manufacture methamphetamine.
- (2) The person cooperates in any law enforcement investigation concerning the manufacture of methamphetamine.
- (3) The person testifies in any judicial proceeding concerning the manufacture of methamphetamine."

SECTION 10. Sections 1 through 6 of this act and Section 8 of this act become effective December 1, 2004, and apply 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 but for this act remain applicable to those prosecutions. Section 7 of this act becomes effective January 1, 2005. The remainder of this act is effective when it becomes law, at which time the Commission for Health Services may adopt rules under Section 7 of this act.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 10:45 a.m. on the 3rd day of August, 2004.

AN ACT (1) TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND HIGHER EDUCATION NEEDS AND FOR JUVENILE DETENTION; (2) TO REQUIRE THE TOBACCO TRUST FUND AND THE HEALTH AND WELLNESS TRUST FUND TO PROVIDE THE DEBT SERVICE FOR THIS INDEBTEDNESS; (3) TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, THE PRESERVATION OF NATURAL HERITAGE, AND CLEAN WATER CONSERVATION AND TO USE FUNDS CURRENTLY DEDICATED TO THESE PURPOSES TO REPAY THE INDEBTEDNESS; (4) TO REQUIRE THE NORTH CAROLINA PARKS AND RECREATION AUTHORITY TO ALLOCATE FUNDS GEOGRAPHICALLY ACROSS THE STATE; (5) TO MAKE CLARIFYING CHANGES; (6) TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE; (7) TO DIRECT THE UNIVERSITY OF NORTH CAROLINA AND THE STATE BOARD OF COMMUNITY COLLEGES TO CONDUCT A STUDY OF UNIVERSITY AND COMMUNITY COLLEGE PROGRAMMING AND CAPITAL NEEDS; AND (8) TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING.

The General Assembly of North Carolina enacts:

PART 1. HEALTH, EDUCATION, AND YOUTH FACILITIES

SECTION 1. This part may be cited as the State Capital Facilities Act of 2004.

SECTION 1.1. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of the following projects. The table below provides the maximum principal amounts. The first column is the aggregate maximum principal amount. The second column is the maximum portion of this amount that can be issued or incurred before July 1, 2005. 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 issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of these projects.

Aggregate Maximum	Maximum before 7/1/05	Project
\$180,000,000	\$110,000,000	Acquiring, constructing, and equipping a new cancer rehabilitation and treatment center, a nearby physicians' office building, and a walkway between the two, all to be located at the University of North Carolina Hospitals at Chapel Hill.
60,000,000	30,000,000	Acquiring, constructing, and equipping the North Carolina Cardiovascular Diseases Institute at East Carolina University.

35,000,000	25,000,000	Acquiring, constructing, and equipping a Bioinformatics Center at the University of North Carolina at Charlotte.
28,000,000	25,000,000	Acquiring, constructing, and equipping a stand-alone facility to house the new Pharmacy School program to be located at Elizabeth City State University, and interim temporary facilities to house the program during construction of the facility.
35,000,000	25,000,000	Acquiring, constructing, and equipping a Center for Health Promotion and Partnerships at the University of North Carolina at Asheville.
10,000,000	10,000,000	Land acquisition, site preparation, and engineering, architectural, and other consulting services for a Center of Excellence of Teaching and Nursing at Fayetteville State University.
10,000,000	10,000,000	Land acquisition, site preparation, and engineering, architectural, and other consulting services for facilities for development of the joint Millennial Campus of North Carolina Agricultural and Technical State University and the University of North Carolina at Greensboro.
10,000,000	10,000,000	Land acquisition, site preparation, and engineering, architectural, and other consulting services for an Optometry School facility at the University of North Carolina at Pembroke.
10,000,000	10,000,000	To Western Carolina University for land acquisition, site preparation, and engineering, architectural, and other consulting services for Western Carolina University and the Mountain Area Health Education Consortium for the North Carolina Center for Health and Aging to be operated as a consortium among Western Carolina University, the University of North Carolina at Asheville, and the Mountain Area Health Education Consortium.
10,000,000	10,000,000	Property acquisition in Piedmont-Triad Research Park for Winston-Salem State University programming related to biotechnology education and research; and land acquisition, site preparation, and engineering, architectural, and other consulting services for a Center for Design Innovation to be operated jointly by

Winston-Salem State University and the North Carolina School of the Arts.

TOTAL:

\$388,000,000 \$265,000,000

SECTION 1.2. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-five million dollars (\$35,000,000) to finance the costs of constructing up to five youth development centers totaling up to 224 beds to be operated by the Department of Juvenile Justice and Delinquency Prevention and to be located as determined by that Department. 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 issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of constructing the projects described by this section. Of the special indebtedness authorized by this section, no more than thirteen million dollars (\$13,000,000) may be issued or incurred before July 1, 2005.

SECTION 1.3. G.S. 147-86.30 reads as rewritten:

"§ 147-86.30. Health and Wellness Trust Fund established.

(a) **Fund Established.** – There is established the Health and Wellness Trust Fund in the Office of the State Treasurer ~~to that shall~~ be used to develop a comprehensive plan to finance programs and initiatives to improve the health and wellness of the people of North Carolina. As used in this Article, the term "Fund" means the Health and Wellness Trust Fund. It is the intent of the General Assembly that the funds provided pursuant to this Article to address the health needs of North Carolinians be used to supplement, not supplant, existing funding of health and wellness programs.

(b) **Fund Earnings, Assets, and Balances.** – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to directives of the Commission. The Commission may expend moneys in the Fund only as provided in subsections (c) and (d) of this section.

(c) ~~Creation of Fund Reserve. — The Commission shall reserve, and shall not expend, fifty percent (50%) of each annual payment allocated to the Health and Wellness Trust Fund pursuant to G.S. 143-16.4 during years 2001 through 2025 to create and build the Fund Reserve. During years 2001 through 2025, the Commission may expend any investment earnings on the reserved funds. Beginning in year 2026, and thereafter, the Commission shall not expend the reserved funds but may continue to expend any investment earnings on the reserved funds.~~ **Priority Use of Funds.** – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004, Part 1 of House Bill 1264, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and (ii) the applicable percentage of the Fund's receipts for the current fiscal year. For fiscal years beginning before July

1, 2007, the applicable percentage is thirty percent (30%). For fiscal years beginning on or after July 1, 2007, the applicable percentage is sixty-five percent (65%).

(d) ~~Use of Nonreserved Remaining Funds. – The Commission may expend or commit moneys in the Fund in a fiscal year only after the payment required by subsection (c) of this section has been made. all of the annual payments for years 1998, 1999, and 2000 and may expend the remaining fifty percent (50%) portion of each annual payment thereafter through the year 2025 that is not reserved pursuant to subsection (e) of this section. Any unexpended or unencumbered portion of the nonreserved portion of each annual payment for years 2001 through 2025 that has not been expended or encumbered by the third June 30th following the date of the receipt of the payment shall be reserved pursuant to subsection (e) of this section. The Commission may expend any investment earnings on the nonreserved funds in the year in which the investment earnings are received by the Fund.~~

(e) Fund Purposes. – Moneys from the Fund may be used for any of the following purposes:

- (1) To address the health needs of vulnerable and underserved populations in North Carolina.
- (2) To fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.
- (3) To develop a comprehensive, community-based plan with goals and objectives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and with an emphasis on reducing youth tobacco use. The plan shall include measurable health and wellness objectives and a proposed timetable for achieving these objectives. In developing the plan, the Commission shall consider all facets of health, including prevention, education, treatment, research, and related areas.

(f) Limit on Operating and Administrative Expenses. – No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total ~~sum~~ of one million dollars (\$1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund."

SECTION 1.4. G.S. 143-719 reads as rewritten:

"§ 143-719. Tobacco Trust Fund; creation; ~~investment~~investment; priority use.

(a) Fund Established. – The Tobacco Trust Fund is established in the Office of the State Treasurer. The Fund shall be used ~~to provide financial assistance in accordance with~~ for the purposes provided in this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer ~~shall be~~ is the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the Fund ~~shall~~ become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year ~~shall be~~ is carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to the directives of the Commission.

(c) Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004, Part 1 of House Bill 1264, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and (ii) the applicable percentage of the Fund's receipts for the current fiscal year. For fiscal years beginning before July 1, 2007, the applicable percentage is thirty percent (30%). For fiscal years beginning on or after July 1, 2007, the applicable percentage is sixty-five percent (65%)."

SECTION 1.5. Sections 1.3 and 1.4 of this part are effective on and after July 1, 2004. The remainder of this part is effective when it becomes law.

PART 2. PARKS RENOVATION AND ACQUISITION

SECTION 2.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of parks projects. As used in this part, the term "parks projects" means capital projects for the State Parks System, repairs and renovations of park facilities, and land acquisition for the State Parks System, pursuant to G.S. 113-44.15(b)(1). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 2.2. Identification of Parks Projects. – The specific parks projects for which the special indebtedness may be used are to be identified by the North Carolina Parks and Recreation Authority as provided in G.S. 113-44.15, but are limited to the following projects:

- (1) Acquisition by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment by incompatible development.
- (2) Acquisition of up to 6,000 acres to expand an existing State park, provide gamelands to help protect North Carolina rivers, and provide two new State parks along North Carolina rivers; and capital improvements to an existing State park as part of its expansion.

SECTION 2.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued or incurred pursuant to this part is the lesser of (i) the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 3 and 4 of this act or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified by the Authority as provided in G.S. 113-44.15(d). If the annual amount is increased, the maximum principal amount increases accordingly, but not above the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 3 and 4 of this act. The amount of special indebtedness to be issued or incurred at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the first column below may be issued for each purpose. Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the second column below may be issued for each purpose before July 1, 2005. The total maximum principal amount of special

indebtedness that may be issued under this part before July 1, 2005, is the total amount indicated in the second column below minus the amount of special indebtedness issued or incurred under parts 3 and 4 of this act.

Maximum Amount	Maximum before 7/1/05	Purpose
\$20,000,000	\$12,000,000	Land near military bases.
25,000,000	20,000,000	Parks and gamelands.
TOTAL:		
\$45,000,000	\$32,000,000	

SECTION 2.4. G.S. 113-44.15 reads as rewritten:

"§ 113-44.15. Parks and Recreation Trust Fund.

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

- (1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition-acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.
- (2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.
- (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this ~~subsection, section,~~ the North Carolina Parks and Recreation Authority shall ~~consider~~ make geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. The

Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.

(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 3. PARKS, RECREATION, AND PRESERVATION OF NATURAL HERITAGE

SECTION 3.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of natural heritage projects. As used in this part, the term "natural heritage projects" means acquiring land for parks, recreation, and the preservation of natural heritage, pursuant to G.S. 113-77.9(b)(1) and (2). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 3.2. Identification of Natural Heritage Projects. – The specific natural heritage projects for which the special indebtedness may be used are to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S. 113-77.9, but are limited to the following projects:

- (1) Acquisition by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment by incompatible development.
- (2) Acquisition of up to 6,000 acres to expand an existing State park, provide gamelands to help protect North Carolina rivers, and provide two new State parks along North Carolina rivers; and capital improvements to an existing State park as part of its expansion.

SECTION 3.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued or incurred pursuant to this part is the lesser of (i) the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 2 and 4 of this act or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified by the Authority as provided in G.S. 113-44.15(d). If the annual amount is increased, the maximum principal amount increases accordingly, but not above the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 2 and 4 of this act. The amount of special indebtedness to be issued or incurred at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the first column below may be issued

for each purpose. Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the second column below may be issued for each purpose before July 1, 2005. The total maximum principal amount of special indebtedness that may be issued under this part before July 1, 2005, is the total amount indicated in the second column below minus the amount of special indebtedness issued or incurred under parts 2 and 4 of this act.

Maximum Amount	Maximum before 7/1/05	Purpose
\$20,000,000	\$12,000,000	Land near military bases.
25,000,000	20,000,000	Parks and gamelands.
TOTAL:		
\$45,000,000	\$32,000,000	

SECTION 3.4. G.S. 113-77.9 reads as rewritten:

"§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.

(a) Proposals. – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands to be acquired with funds from the Fund. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Trustees with the following information:

- (1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.
- (2) Any rare or endangered species on or near the land.
- (3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.
- (4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature.
- (5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.
- (6) Other sources of funds that may be available to assist in acquiring the land.
- (7) The State department or division that will be responsible for managing the land.
- (8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.
- (9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(b) Land Acquisition and Debt Service. – The Trustees may authorize expenditures from the Fund ~~to acquire~~ for the following purposes:

- (1) To acquire land ~~Land~~ that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic ~~purposes~~ purposes, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (2) To acquire land ~~Land~~ as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the ~~public~~ public, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (3) Subject to the limitations of subsection (b2) of this section, to acquire land that contributes to the development of a balanced State program of historic properties.

(b1) Priorities. – In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of this section.

(b2) Historic Properties. – The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b) of this section. No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b) of this section.

(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.

(c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization qualified under G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341.

(d1) Local Reimbursement. – In any county in which real property was purchased pursuant to subsection (d) of this section as additions to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

(e) Reports. – The Secretary shall maintain and revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision.

(f) Hunting and Fishing. – No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

SECTION 3.5. G.S. 113-77.7 is amended by adding a new subsection to read:

"(d) Monies in the Fund are appropriated annually and may be used for the purposes provided in G.S. 113-77.9."

PART 4. CLEAN WATER CONSERVATION

SECTION 4.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of clean water projects. As used in this part, the term "clean water project" means a capital project for one or more purposes provided in G.S. 113A-253(c)(1) through (4). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 4.2. Identification of Clean Water Projects. – The specific clean water projects for which the special indebtedness may be used are to be identified by the Clean Water Management Trust Fund Board of Trustees as provided in G.S. 113A-256(j), but are limited to the following projects:

- (1) Acquisition by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment by incompatible development.
- (2) Acquisition of up to 6,000 acres to expand an existing State park, provide gamelands to help protect North Carolina rivers, and provide

two new State parks along North Carolina rivers; and capital improvements to an existing State park as part of its expansion.

SECTION 4.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued or incurred pursuant to this part is the lesser of (i) the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 2 and 3 of this act or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified by the Authority as provided in G.S. 113-44.15(d). If the annual amount is increased, the maximum principal amount increases accordingly, but not above the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 2 and 3 of this act. The amount of special indebtedness to be issued or incurred at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the first column below may be issued for each purpose. Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the second column below may be issued for each purpose before July 1, 2005. The total maximum principal amount of special indebtedness that may be issued under this part before July 1, 2005, is the total amount indicated in the second column below minus the amount of special indebtedness issued or incurred under parts 2 and 3 of this act.

Maximum Amount	Maximum before 7/1/05	Purpose
\$20,000,000	\$12,000,000	Land near military bases.
25,000,000	20,000,000	Parks and gamelands.
TOTAL:		
\$45,000,000	\$32,000,000	

SECTION 4.4. G.S. 113A-253(c) reads as rewritten:

"(c) Fund Purposes. – Moneys from the Fund are appropriated annually and may be used for any of the following purposes:

- (1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational ~~uses-uses~~ and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water ~~supplies-supplies~~ and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water ~~quality-quality~~ and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (4) To restore previously degraded lands to reestablish their ability to protect water ~~quality-quality~~ and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

- (5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during the latest review cycle; (ii) the repair is a reasonable remedy for resolving an existing waste treatment problem; and (iii) the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.
- (6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.
- (7) To improve stormwater controls and management practices.
- (8) To facilitate planning that targets reductions in surface water pollution.
- (9) To fund operating expenses of the Board of Trustees and its staff."

SECTION 4.5. G.S. 113A-256 is amended by adding a new subsection to read:

"(j) Debt. – Of the funds credited annually to the Fund, the Trustees may authorize expenditure of a portion to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in G.S. 113A-253(c)(1) through (4). In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific capital projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a capital project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 5. DEBT AFFORDABILITY ADVISORY COMMITTEE

SECTION 5.1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Managing Debt Capacity.

"§ 142-100. Purpose.

The purpose of this Article is to provide tools for sound debt management by providing an annual debt affordability study to establish guidelines for maintaining prudent debt levels and by establishing a system for prioritizing State capital needs when the needs exceed the State's capacity for new debt.

"§ 142-101. Debt Affordability Advisory Committee.

(a) Membership. – The Debt Affordability Advisory Committee is created in the Department of State Treasurer. The Committee shall consist of five ex officio members or their designees and four appointed members, as follows:

- (1) The State Treasurer.
- (2) The Secretary of Revenue.
- (3) The State Budget Officer.
- (4) The State Auditor.

- (5) The State Controller.
- (6) Two members of the public appointed by the President Pro Tempore of the Senate.
- (7) Two members of the public appointed by the Speaker of the House of Representatives.

(b) Officers and Staff. – The State Treasurer shall serve as the chair of the Committee. The Committee shall meet at the call of the chair. The Department of State Treasurer shall provide space for the Committee to meet. The Department shall also provide the Committee with necessary staff and supplies to enable it to carry out its duties in an effective manner.

(c) Compensation. – Members of the Committee shall serve without pay but shall receive per diem and allowances provided by G.S. 138-5 and G.S. 138-6.

(d) Duties. – The Debt Affordability Advisory Committee shall annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the State's debt burden. The guidelines should include target and ceiling ratios of net tax-supported debt to personal income and debt service to revenues, target and floor percentages for the 10-year payout ratio, and target and floor percentages for the unreserved General Fund balance. The Committee shall also recommend any other debt management policies it considers desirable and consistent with sound management of the State's debt.

(e) Reports. – The Committee shall report its findings and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division by February 1 of each year."

SECTION 5.2. From funds appropriated to the Department of State Treasurer for the 2004-2005 fiscal year, the State Treasurer shall allocate the amounts necessary to implement the provisions of this part.

PART 6. UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM JOINT STUDY OF HIGHER EDUCATION STRATEGY

SECTION 6.1. To ensure that the State's citizens are academically prepared and equipped for current job opportunities and jobs of the future in North Carolina's growing knowledge economy, the Board of Governors of The University of North Carolina, in collaboration with the State Board of Community Colleges, shall, within 60 days after this act becomes law, contract with a private consulting firm that has experience in higher education to conduct a comprehensive study of the mission and educational program needs for the University System and the Community College System. The Board of Governors may enter into contracts with consultants for the purposes authorized in this section without complying with the provisions of Article 3C of Chapter 143 of the General Statutes. The study shall include all of the following:

- (1) An analysis of demographic, economic, and educational data regarding the needs for higher education programming in the State as a whole, as well as in all geographic and economic regions of the State.
- (2) An updated enrollment projection for each System and each institution that includes adult, noncredit, career, and degree program enrollments.
- (3) An analysis of current program offerings and majors in undergraduate, graduate, nondegree, and workforce training programs, offered by each institution.
- (4) Recommendations as to how the institutions might better serve current and emerging needs related to existing and new programs;

- opportunities for regional program delivery; enhanced effectiveness and quality that can be achieved via sharing of resources, and program partnerships and collaborations both within and between higher education systems; and opportunities for online program delivery and other distance technology delivery systems.
- (5) An analysis of and suggested updates to existing long-range capital plans of both the University and Community College Systems that will address land acquisition and facility needs to support the program recommendations identified in this study, taking into account opportunities for modernization of and new uses for existing facilities.
 - (6) With regard to the University System, there shall be special emphasis on the development of signature programs for Historically Black Colleges and Universities and the University of North Carolina at Pembroke. In conducting the study, the consulting firm shall take into account that the General Assembly finds the Historically Black Colleges and Universities and the University of North Carolina at Pembroke to be institutions with important historical traditions and equally important contemporary purposes and, as such, are valuable and indispensable assets of The University of North Carolina and the State. The General Assembly intends to encourage the continued growth and development of those constituent institutions and would resist any suggestion to eliminate the historical function and purpose of those institutions.
 - (7) With regard to both the University System and the Community College System, there shall be an acknowledgement of the existence and importance of a strong liberal arts education foundation and, at the same time, an emphasis on existing and new programs specifically aimed at meeting business, industry, workforce, and career needs of North Carolina in the State's changing and growing knowledge-based economy, taking into account, as appropriate, State and regional economic strategies.

SECTION 6.2. These studies shall be designed to provide information and recommendations that will assist the General Assembly in setting priorities for funding to address the strategic higher education needs of the State. The Board of Governors, the State Board, and their consultant shall periodically report their findings to a higher education programming subcommittee of the Joint Legislative Education Oversight Committee. The two boards and their consultant shall report the preliminary results of the study to the General Assembly and to the Joint Legislative Education Oversight Committee by April 15, 2005, and shall file a final report and recommendations with the General Assembly and the Joint Legislative Education Oversight Committee no later than December 31, 2005.

SECTION 6.3. The Joint Legislative Education Oversight Committee may create a higher education programming subcommittee to monitor the study authorized in this part.

PART 7. INNOVATIVE STATE FINANCING STUDY

SECTION 7.1. Article 9 of Chapter 142 of the General Statutes is amended by adding a new section to read:

"§ 142-95. RECOP indebtedness.

(a) Authorization. – In addition to special indebtedness described in the preceding sections of this Article, the State may incur special indebtedness as described in this section to be called real estate certificates of participation (RECOP) indebtedness. RECOP indebtedness shall be incurred for the purposes and otherwise as prescribed in the preceding sections of this Article, with the exceptions and limitations provided in this section. All of the provisions of this Article apply to RECOP indebtedness except to the extent a provision of this section specifically conflicts with a provision in the preceding sections of this Article.

(b) Purposes. – In addition to the purposes provided in G.S. 142-83, RECOP indebtedness may be incurred to refund any indebtedness of the State. RECOP indebtedness may refund non-RECOP indebtedness to the same extent it may refund RECOP indebtedness in accordance with the preceding sections of this Article, except that the General Assembly must first enact legislation authorizing the incurrence of RECOP indebtedness for this purpose up to a specific maximum amount. The proceeds of RECOP indebtedness may not be used for operating expenses, start-up costs, or other items of working capital.

(c) Security. – In addition to the security authorized in G.S. 142-85(a), RECOP indebtedness may be secured by any property or interest in property of the State selected by the Director of the Budget in consultation with the State Treasurer and approved by the Council of State in accordance with this Article. Before selecting as security any property or interest in property not authorized in G.S. 142-85, the Director of the Budget must consult with the Joint Legislative Commission on Governmental Operations. This subsection supplements G.S. 142-85(a); all of the remaining provisions of G.S. 142-85 apply to RECOP indebtedness.

(d) Principal. – The entire principal amount may mature on a single date. No principal reduction is required prior to maturity.

(e) Interest. – Interest on RECOP indebtedness may be payable partly periodically and partly at maturity or earlier redemption, in the latter case with interest accruing and compounding at a stated interest rate.

(f) Additional State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any sale of the State's interest in property securing RECOP indebtedness if the sales proceeds are used first to pay, or provide for the payment of, all or a portion of that RECOP indebtedness. The property law exceptions in G.S. 142-85(h) also apply to RECOP indebtedness."

SECTION 7.2. The General Assembly finds that there are circumstances in which the State may benefit from the use of innovative or flexible public financing tools not previously considered in North Carolina. In light of the value of State property and its great potential for appreciation, financing vehicles may be developed that provide for a lower annual debt service in exchange for a larger payment when the debt matures. In the context of urgent State needs or temporary budget restrictions, the General Assembly finds that it may be in the best interest of the State to be able to take advantage of this type of financing option. In order for the General Assembly to make a policy decision on this issue, more economic and financial information is needed.

SECTION 7.3 The State Treasurer shall study the effects of refunding State indebtedness or financing new State facilities with RECOP indebtedness as defined in G.S. 142-95, as enacted by this part. In evaluating the feasibility of incurring RECOP indebtedness and the surrounding policy issues, the State Treasurer shall evaluate all of the following:

- (1) The overall net economic cost to the State in incurring RECOP indebtedness as compared to other forms of indebtedness.
- (2) The relative annual debt service costs and final maturity payments of RECOP indebtedness as compared to other forms of indebtedness.
- (3) The availability of alternative financing opportunities and their relative costs to the State.
- (4) For refundings, whether the refunding would result in an economic gain, overall lower borrowing costs, or other benefits to the State.
- (5) Factors that affect which circumstances might make RECOP financing more or less desirable.
- (6) The impact on the State's credit rating of various debt options in various situations.
- (7) Any other issues the State Treasurer considers relevant.

The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations by February 1, 2005, the results of this study, including specific findings and recommendations.

PART 8. GENERAL PROVISIONS

SECTION 8.1. It is the intent of the General Assembly that the proceeds of special indebtedness issued under parts 2 through 4 of this act shall be applied for the purposes provided in those parts, including the acquisition by conservation easement, or otherwise, of land near military bases to prevent encroachment. This acquisition shall be a high priority because of its vital importance to the State of North Carolina.

SECTION 8.2. None of the proceeds of special indebtedness authorized by parts 2 through 4 of this act may be used to acquire any property by eminent domain.

SECTION 8.3. 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 8.4. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 11:54 a.m. on the 5th day of August, 2004.

H.B. 1464

Session Law 2004-180

AN ACT TO REDUCE BY FIVE THE NUMBER OF NONINSTRUCTIONAL TEACHER WORKDAYS; TO PROVIDE THAT PUBLIC SCHOOLS SHALL OPEN NO SOONER THAN AUGUST 25 AND CLOSE NO LATER THAN JUNE 10 EXCEPT IN YEAR-ROUND SCHOOLS, IN SCHOOLS IN ANY LOCAL SCHOOL ADMINISTRATIVE UNIT IN A COUNTY THAT HAVE BEEN CLOSED EIGHT DAYS PER YEAR DURING ANY FOUR OF THE LAST TEN YEARS BECAUSE OF SEVERE WEATHER CONDITIONS, ENERGY SHORTAGES, POWER FAILURES, OR OTHER EMERGENCY SITUATIONS, OR IN CERTAIN SCHOOLS WITH MODIFIED CALENDARS; TO ALLOW THE STATE BOARD OF EDUCATION TO GRANT EXEMPTIONS FROM THE OPENING AND CLOSING DATE REQUIREMENT FOR PURPOSES OF ACCOMMODATING SPECIAL PROGRAMS AND SCHOOLS; TO CLARIFY THAT LOCAL BOARDS OF EDUCATION MAY OFFER SUPPLEMENTAL OR

ADDITIONAL PROGRAMS OUTSIDE OF THE SCHOOL CALENDAR; TO ENSURE THAT TEACHERS ARE PAID IN AUGUST; TO PROVIDE THAT FIVE NONINSTRUCTIONAL TEACHER WORKDAYS ARE PROTECTED FOR TEACHERS TO COMPLETE INSTRUCTIONAL AND CLASSROOM ADMINISTRATIVE DUTIES; TO REQUIRE THAT AT LEAST SEVEN NONINSTRUCTIONAL DAYS ARE DESIGNATED AS DAYS ON WHICH TEACHERS WITH ACCUMULATED VACATION LEAVE MAY TAKE THAT LEAVE; TO PROVIDE THAT THE REDUCTION IN TEACHER WORKDAYS DOES NOT REDUCE THE ANNUAL RATE OF PAY FOR TEACHERS AND OTHER EMPLOYEES; TO PROVIDE THAT NOTHING IN THIS ACT SHALL BE CONSTRUED AS CHANGING THE PAY CYCLE FOR NONCERTIFIED EMPLOYEES; TO DIRECT THE STATE BOARD OF EDUCATION TO STUDY NONINSTRUCTIONAL TEACHER WORKDAYS; TO PROVIDE THAT NOTHING IN THIS ACT REQUIRES THE GENERAL ASSEMBLY TO APPROPRIATE FUNDS FOR ITS IMPLEMENTATION OR REQUIRES LOCAL SCHOOL ADMINISTRATIVE UNITS TO EXPEND ADDITIONAL FUNDS FOR ITS IMPLEMENTATION; TO PROVIDE THAT THIS ACT APPLIES TO SCHOOLS BEGINNING WITH THE 2005-2006 SCHOOL YEAR; TO PROVIDE THAT THE ACT APPLIES IN ALL ONE HUNDRED COUNTIES AND IN ALL LOCAL SCHOOL ADMINISTRATIVE UNITS; AND TO PROVIDE THAT THE ACT IS EFFECTIVE WHEN IT BECOMES LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-84.2 reads as rewritten:

"§ 115C-84.2. School calendar.

(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of ~~220~~215 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) ~~(Applies only to 2002-2003 school year — See editor's note.) 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.~~
- ~~e. 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.~~

- (2) A minimum of 10 annual vacation leave days.
- (3) The same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Personnel Commission for State employees.
- (4) ~~Eight~~ Five days, as designated by the local board, for use as teacher workdays, additional instructional days, or other lawful purposes. A local board may delegate to the individual schools some or all of the ~~eight~~ five days to schedule under subdivision (5) of this subsection. A local board may schedule different purposes for different personnel on any given day and is not required to schedule the same dates for all personnel workdays. These days shall be protected to allow teachers to complete instructional and classroom administrative duties. The local school administrative unit shall not impose any additional tasks on these days. The local board shall schedule one of these days at the beginning of the school year and one at the end of each academic quarter.
- (5) The remaining days scheduled by the local board in consultation with each school's principal for any of the purposes allowed under subdivision (4) of this subsection. use as teacher workdays, additional instructional days, or other lawful purposes. Before scheduling these days, the principal consulting with the local board, each principal shall work with the school improvement team to determine the days to be scheduled and the purposes for which they should be scheduled. Days may be scheduled and planned for different purposes for different personnel and there is no requirement to schedule the same dates for all personnel. However, if during the last two years the local school administrative unit has made up an average of at least eight days for school closing because of inclement weather, the local board may designate up to two of these days In order to make up days for school closing because of inclement weather, the local board may designate any of the days in this subdivision as additional make-up days to be scheduled after the last day of student attendance.

Local boards and individual schools are encouraged to use the calendar flexibility in order to meet the annual performance standards set by the State Board. Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

Local boards and individual schools shall designate at least seven days scheduled under subdivisions (4) and (5) of this subsection as days on which teachers may take accumulated vacation leave. Local boards may designate the remaining days scheduled in subdivisions (4) and (5) of this subsection as days on which teachers may take accumulated vacation leave, but local boards shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on days scheduled in accordance with subdivision (5) of this subsection. Any of these days. A teacher may elect to waive this notice requirement for one or more such of these days.

(b) Limitations. – The following limitations apply when developing the school calendar:

- (1) The total number of teacher workdays for teachers employed for a 10 month term shall not exceed 200-195 days.
- (2) The calendar shall include at least 42 consecutive days when teacher attendance is not required unless: (i) the school is a year-round school; or (ii) the teacher is employed for a term in excess of 10 months. At the request of the local board of education or of the principal of a school, a teacher may elect to work on one of the 42 days when teacher attendance is not required in lieu of another scheduled workday.
- (3) School shall not be held on Sundays.
- (4) Veterans Day shall be a holiday for all public school personnel and for all students enrolled in the public schools.

(c) Emergency Conditions. – During any period of emergency in any section of the State where emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall not be before August 25, and the closing date for students shall not be after June 10. On a showing of good cause, the State Board of Education may waive this requirement to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. ~~Different opening and closing dates may be fixed for schools in the same administrative unit.~~ For purposes of this subsection, the term 'good cause' means that schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

The State Board also may waive this requirement for an educational purpose. The term 'educational purpose' means a local school administrative unit establishes a need to adopt a different calendar for (i) a specific school to accommodate a special program offered generally to the student body of that school, (ii) a school that primarily serves a special population of students, or (iii) a defined program within a school. The State Board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the State Board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening and closing dates set forth in this subsection. The waiver requests for educational purposes shall not be used to accommodate system-wide class scheduling preferences.

The required opening and closing dates under this subsection shall not apply to any school that a local board designated as having a modified calendar for the 2003-2004 school year or to any school that was part of a planned program in the 2003-2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar.

(e) Nothing in this section prohibits a local board of education from offering supplemental or additional educational programs or activities outside the calendar adopted under this section."

SECTION 2. G.S. 115C-302.1(b) reads as rewritten:

"(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10 months. State-allotted months of employment for vocational education to local boards shall be used for the employment of teachers of vocational and technical education for a term of employment to be determined by the local boards of education. However, local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 1982-83 school year for any school year thereafter.

Each local board of education shall establish a set date on which monthly salary payments to State-allotted teachers shall be made. This set pay date may differ from the end of the month of service. The daily rate of pay for teachers shall equal ~~one~~ twenty-second ~~midway between one twenty-first and one twenty-second~~ of the monthly rate of pay. Except for teachers employed in a year-round school or paid in accordance with a year-round calendar, or both, the initial pay date for teachers shall be no later than August 31 and shall include a full monthly payment. Subsequent pay dates shall be spaced no more than one month apart and shall include a full monthly payment.

Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher who fails to attend scheduled workdays or who has not worked the number of days for which the teacher has been paid and who resigns, is dismissed, or whose contract is not renewed shall repay to the local board any salary payments received for days not yet worked. A teacher who has been prepaid and continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal under G.S. 115C-325 or other appropriate discipline.

Any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. The request shall be filed in the local school administrative unit ~~which~~ that employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease the teacher's annual salary nor in any other way alter the contract made between the teacher and the local school administrative unit. Teachers employed for a period of less than 10 months shall not receive their salaries in 12 installments.

Notwithstanding this subsection, the term 'daily rate of pay' for the purpose of G.S. 115C-12(8) or for any other law or policy governing pay or benefits based on the teacher salary schedule shall not exceed one twenty-second of a teacher's monthly rate of pay."

SECTION 3. For certified and noncertified employees employed on or after the effective date of this act, the annual rate of pay beginning with the 2005-2006 school year shall not be reduced as the result of this act. Furthermore, nothing in this act shall be construed to change the pay cycle for noncertified employees. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee on local compliance with this section.

SECTION 4. The State Board of Education shall study the scheduling of and purposes of noninstructional teacher workdays. As part of the study, the State Board shall consult with interested stakeholders that include members of local boards of education, school administrators, teachers, parents, and others the State Board considers appropriate. The State Board shall report any findings to the Joint Legislative Education Oversight Committee by December 15, 2004.

SECTION 5. Nothing in this act shall require the General Assembly to appropriate funds to implement it or require a local school administrative unit to spend additional funds to implement it.

SECTION 6. This act is effective when it becomes law and applies to school years beginning with the 2005-2006 school year. This act shall apply in all 100 counties and in all local school administrative units.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 1:17 p.m. on the 9th day of August, 2004.

H.B. 1699**Session Law 2004-181**

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. Purpose. – 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 Section 1 of this act including by revenue bonds, by special obligations bonds as authorized in Section 6 of this act, or by both are as follows:

1	Appalachian State University Central Dining Facility – Supplement	\$2,000,000
2	East Carolina University Tyler & Fletcher Residence Halls – Air Conditioning and Window Upgrades	3,250,000
3	North Carolina A&T State University Parking Deck	6,796,750
4	North Carolina State University Dining Hall Renovations Renovation of Berry, Becton, and Bagwell Residence Halls-Supplement	3,000,000 4,000,000

	Student Commons Improvements	3,500,000
	Renovations to Reynolds Coliseum	1,500,000
5	The University of North Carolina at Asheville Governor's Village Residence Hall	12,700,000
6	The University of North Carolina at Chapel Hill Carmichael Fields 3 & 4	1,200,000
	Student Family Housing	19,000,000
	Morrison Residence Hall Renovations	24,000,000
	Residence Halls Phase II-Supplement	20,500,000
	Parking Facilities	17,000,000
7	The University of North Carolina at Charlotte Parking Deck-Supplement	4,200,000
	Greek Village Housing	21,500,000
8	The University of North Carolina at Greensboro Parking Deck Addition	8,000,000
	Residence Hall Renovations	4,500,000
	Dining Hall Renovations	<u>1,500,000</u>
	TOTAL	\$158,146,750

SECTION 3. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, including by special obligations bonds as authorized in Section 6 of this act, are as follows:

1	Appalachian State University Steam Line Improvements	\$2,000,000
2	East Carolina University Administrative Offices	2,500,000
	Stadium Maintenance Repairs – Phase III	2,600,000
3	The University of North Carolina at Chapel Hill Ambulatory Care Renovations	1,800,000
	Arthritis Research Center	1,800,000
	ITS Building-Supplement	4,000,000
	Institute for Advanced Materials, Nanoscience & Nanotechnology	3,800,000
	Educational Foundation Office Building	3,000,000
	Athletic Facilities Improvements	1,100,000
	School of Medicine Research Facilities-Addition	33,000,000
	The Daniels Building Renovations	7,000,000
	Major Infrastructure Improvements	68,436,150
	Campus Fiber Optic Wiring	8,000,000
4	The University of North Carolina at Charlotte	

Student Union Building-Supplement	<u>6,000,000</u>
TOTAL	\$145,036,150

SECTION 4. The following projects are authorized and the Board of Governors and the respective campuses are authorized to accept gifts for the costs associated with completing the projects:

1	North Carolina Central University Biomanufacturing Research Institute and Training Enterprise (BRITE)	\$17,800,000
2	North Carolina State University Biomanufacturing Training and Education Center (BTEC)	33,500,000
3	The University of North Carolina at Chapel Hill Addition to WUNC Radio	<u>1,000,000</u>
	TOTAL	\$52,300,000

SECTION 5. 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, except that the Director of the Budget shall not authorize debt financing of the projects authorized in Section 4 of this act. Before authorizing a change in cost or funding, the Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations.

SECTION 6. 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 Sections 2 and 3 of 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 twenty million dollars (\$20,000,000) for related additional costs, such as issuance expenses, funding of reserve funds, and capitalized interest.

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

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 11:30 a.m. on the 10th day of August, 2004.

S.B. 464**Session Law 2004-182**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A NATIONAL RIFLE ASSOCIATION 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:

...

~~(28)~~(27i) National Guard Member. – Issuable to an active or a retired member of the North Carolina National Guard. The plate shall bear the phrase "National Guard". A plate issued to an active member shall bear a number that reflects the seniority of the member; a plate issued to a commissioned officer shall begin with the number "1"; a plate issued to a noncommissioned officer with a rank of E7, E8, or E9 shall begin with the number "1601"; a plate issued to an enlisted member with a rank of E6 or below shall begin with the number "3001". The plate issued to a retired or separated member shall indicate the member's retired status.

(28) National Rifle Association. – Issuable to the registered owner of a motor vehicle. The plate shall bear a phrase or insignia representing the National Rifle Association of America. The Division shall not use the name and logo of the National Rifle Association of America on the plate unless the National Rifle Association of America 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."

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

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law upon approval of the Governor at 11:39 a.m. on the 10th day of August, 2004.

H.B. 817

Session Law 2004-183

AN ACT TO PROVIDE THAT A PISTOL MAY BE PURCHASED BY A PERSON WHO HAS A CONCEALED HANDGUN PERMIT WITHOUT OBTAINING AN ADDITIONAL PERMIT TO PURCHASE A HANDGUN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-402 reads as rewritten:

"§ 14-402. Sale of certain weapons without permit forbidden.

(a) It ~~shall be~~ is unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State from any other place within or without the State any pistol or crossbow ~~unless a~~ unless: (i) a license or permit therefor has is first been obtained under this Article by the purchaser or receiver from the sheriff of the county in which ~~that the~~ purchaser or receiver resides; or (ii) a valid North Carolina concealed handgun permit is held under Article 54B of this Chapter by the purchaser or receiver who must be a resident of the State at the time of the purchase.

It ~~shall be~~ is unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee within the State of North Carolina any pistol or crossbow without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same the permit from the

sheriff as provided in G.S. 14-403. Any person violating the provisions of this section ~~shall be~~ is guilty of a Class 2 misdemeanor.

(b) This section does not apply to an antique firearm or an historic edged weapon.

(c) The following definitions apply in this section:

- (1) Antique firearm. – Defined in G.S. 14-409.11.
- (2) Bolt. – A projectile made to be discharged from a crossbow. The bolt differs from an arrow in that the bolt is heavier and shorter than an arrow.
- (3) Crossbow. – A mechanical device consisting of, but not limited to, strings, cables, and prods transversely mounted on either a shoulder or hand-held stock. This device [device] is mechanically held at full or partial draw and released by a trigger or similar mechanism which is incorporated into a stock or handle. When operated, the crossbow discharges a projectile known as a bolt.
- (4) Historic edged weapon. – Defined in G.S. 14-409.12."

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

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law upon approval of the Governor at 11:40 a.m. on the 10th day of August, 2004.

S.B. 3

Session Law 2004-184

AN ACT TO PROVIDE FUNDING FOR THE NC MOTORSPORTS TESTING AND RESEARCH COMPLEX AND TO ADJUST THE US 17 INTRASTATE SYSTEM PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. If House Bill 1414, 2004 Regular Session, becomes law, then Section 2.2(a) of House Bill 1414 is amended by rewriting the entry in the chart for:

- (1) Credit to Repairs and Renovations Reserve Account to read:
"Credit to Repairs and Renovations
Reserve Account (76,797,361)";
- (2) Beginning Unreserved Credit Balance FY 2004-2005 to read:
"Beginning Unreserved Credit Balance FY
2004-2005 273,200,829";
- (3) Total General Fund Availability to read:
"Total General Fund Availability 15,925,812,166";
- (4) Revised General Fund Availability for 2004-2005 Fiscal Year to read:
"Revised General Fund Availability for
2004-2005 Fiscal Year 15,918,359,528";
and
- (5) Less: Total General Fund Appropriations for 2004-2005 Fiscal Year to read:
"Less: Total General Fund Appropriations
for 2004-2005 Fiscal Year (15,918,359,528)".

SECTION 2. If House Bill 1414, 2004 Regular Session, becomes law, then Section 2.2(f) of S.L. 2003-284, as rewritten by Section 2.2.(b) of House Bill 1414, reads as rewritten:

"**SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer ~~seventy-eight million seven hundred ninety-seven thousand three hundred sixty-one dollars (\$78,797,361)~~ seventy-six million seven hundred ninety-seven thousand three hundred sixty-one dollars (\$76,797,361) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2004. This subsection becomes effective June 30, 2004."

SECTION 3. If House Bill 1414, 2004 Regular Session, becomes law, then Section 32.1 of House Bill 1414 reads as rewritten:

"**SECTION 32.1.** There is appropriated from the General Fund for the 2004-2005 fiscal year the following amount for capital improvements:

Capital Improvements - General Fund 2004-2005

Department of Commerce – State Ports Authority	
Wilmington Port Replace Crane Rail	2,000,000
Radio Island Development and Improvements	2,000,000
Department of Environment and Natural Resources	
Water Resources Development Projects	26,492,000
North Carolina Museum of Art	
Expansion Planning Funds	2,200,000
University of North Carolina System	
Center for Design Innovation	2,000,000
Winston-Salem State University – Dept Life Sciences	2,000,000
UNC-Greensboro and NC A&T Millennium Campus	4,000,000
NC Motor Sports Testing and Research Complex	2,000,000 4,000,000
UNC-Wilmington – School of Nursing	500,000

TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND ~~43,192,000~~ 45,192,000"

SECTION 4. 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
...		
US-17	Complete 4-laning from Virginia Line to South Carolina Line (including Washington, New Bern, <u>Hampstead from Military Cutoff Road in New Hanover County to US 17 north of Hampstead,</u>	Camden, Pasquotank, Perquimans, Chowan, Bertie, Martin, Beaufort, Craven, Jones, Onslow Pender, New Hanover Brunswick

and Jacksonville
Bypasses)
..."

SECTION 5. This act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 11:48 a.m. on the 11th day of August, 2004.

S.B. 754

Session Law 2004-185

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE STOCK CAR RACING THEME SPECIAL PLATES.

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".

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 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.
- (6) Stock Car Racing Theme.

SECTION 2. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

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

- ...
- (44c) Stock Car Racing Theme. – Issuable to the registered owner of a motor vehicle pursuant to G.S. 20-81.12. This is a series of plates bearing an emblem, seal, other symbol or design displaying themes of professional stock car auto racing, or professional stock car auto racing drivers. The Division shall not develop any plate in the series without a

license to use copyrighted or registered words, symbols, trademarks, or designs associated with the plate. The plate shall be designed in consultation with and approved by the person authorized to provide the State with the license to use the words, symbols, trademarks, or designs associated with the plate. The Division shall not pay a royalty for the license to use the copyrighted or registered words, symbols, trademarks, or designs associated with the plate."

SECTION 3. 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>
Crystal Coast	\$30.00
Historical Attraction	\$30.00
Personalized	\$30.00
State Attraction	\$30.00
<u>Stock Car Racing Theme</u>	<u>\$30.00</u>
Buffalo Soldiers	\$25.00
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
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	\$25.00
Special Olympics	\$25.00
Surveyor Plate	\$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
Be Active NC	\$20.00
Ducks Unlimited	\$20.00
(Effective until June 30, 2006)	
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
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
Zeta Phi Beta Sorority	\$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 4. 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), 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	0
Audubon North Carolina	\$10	\$10	0	0
Be Active NC	\$10	\$10	0	0
Buffalo Soldiers	\$10	\$15	0	0
Crystal Coast	\$10	\$20	0	0
Ducks Unlimited	\$10	\$10	0	0
First in Forestry	\$10	0	\$10	0
Goodness Grows	\$10	\$15	0	0
(Effective until June 30, 2006)				
Harley Owners' Group	\$10	\$10	0	0
Historical Attraction	\$10	\$20	0	0
In-State Collegiate Insignia	\$10	\$15	0	0
Kids First	\$10	\$15	0	0
Litter Prevention	\$10	\$10	0	0
March of Dimes	\$10	\$10	0	0
NC Agribusiness	\$10	\$15	0	0
NC Coastal Federation	\$10	\$15	0	0
Nurses	\$10	\$15	0	0
Olympic Games	\$10	\$15	0	0
Omega Psi Phi Fraternity	\$10	\$10	0	0
Out-of-state Collegiate Insignia	10	0	\$15	0
Personalized	\$10	0	\$15	\$5
(Effective until June 30, 2006)				
Rocky Mountain Elk Foundation	\$10	\$15	0	0
Save the Sea Turtles	\$10	\$10	0	0
Scenic Rivers	\$10	\$10	0	0
School Technology	\$10	\$10	0	0

Soil and Water Conservation	\$10	\$10	0	0
Special Forces Association	\$10	\$10	0	0
Special Olympics	\$10	\$15	0	0
State Attraction	\$10	\$20	0	0
<u>Stock Car Racing Theme</u>	<u>\$10</u>	<u>\$20</u>	<u>0</u>	<u>0</u>
Support Public Schools	\$10	\$10	0	0
Surveyor Plate	\$10	\$15	0	0
The V Foundation for Cancer Research	\$10	\$15	0	0
University Health Systems of Eastern Carolina	\$10	\$15	0	0
Wildlife Resources	\$10	\$10	0	0
Zeta Phi Beta Sorority	\$10	\$10	0	0
All other Special Plates	\$10	0	0	0."

SECTION 5. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b31) Stock Car Racing Theme. – The Division may issue any plate in this series without a minimum number of applications if the person providing the State with the license to use the words, logos, trademarks, or designs associated with the plate produces the plate for the State without a minimum order quantity.

The cost of the Stock Car Racing Theme plate shall include all costs to produce blank plates for issuance by the Division. Notwithstanding G.S. 66-58(b), the Division or the Department of Correction may contract for the production of the blank plates in this series to be issued by the Division, provided the plates meet or exceed the State's specifications including durability and retroreflectivity, and provided the plates are manufactured using high-quality embossable aluminum. The cost of the blank plates to the State shall be substantially equivalent to the price paid to the Department of Correction for license tags, as provided in G.S. 66-58(b)(15).

The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Stock Car Racing Theme plates to the North Carolina Motorsports Foundation, Inc."

SECTION 6. G.S. 20-85(a) reads as rewritten:

"(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

- (1) Each application for certificate of title..... \$35.00
- (2) Each application for duplicate or corrected certificate of title..... 10.00
- (3) Each application of reposessor for certificate of title 10.00
- (4) Each transfer of registration 10.00
- (5) Each set of replacement registration plates..... 10.00
- (6) Each application for duplicate registration card 10.00
- (7) Each application for recording supplementary lien 10.00
- (8) Each application for removing a lien from a

- certificate of title 10.00
- (9) Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale..... 10.00
- (10) Each application for a salvage certificate of title made by an insurer ~~10.00~~10.00
- (11) Each set of replacement Stock Car Racing Theme plates issued under G.S. 20-79.4..... 25.00."

SECTION 7. This act becomes effective October 1, 2004.

In the General Assembly read three times and ratified this the 12th day of July, 2004.

Became law upon approval of the Governor at 11:50 a.m. on the 11th day of August, 2004.

H.B. 1354

Session Law 2004-186

AN ACT TO STRENGTHEN THE LAWS AGAINST DOMESTIC VIOLENCE, TO PROVIDE ADDITIONAL ASSISTANCE TO DOMESTIC VIOLENCE VICTIMS, AND TO MAKE OTHER CHANGES AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

PART I. DOMESTIC VIOLENCE OFFENDER TREATMENT

SECTION 1.1. G.S. 15A-1343 reads as rewritten:

"§ 15A-1343. Conditions of probation.

- (a) In General. – The court may impose conditions of probation reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so.
- (b) Regular Conditions. – As regular conditions of probation, a defendant must:
 - (1) Commit no criminal offense in any jurisdiction.
 - (2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.
 - (3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.
 - (4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).
 - (5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.
 - (6) Pay a supervision fee as specified in subsection (c1).
 - (7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of

- the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.
- (8) Notify the probation officer if he fails to obtain or retain satisfactory employment.
 - (9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).
 - (10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.
 - (11) At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons.
 - (12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice.

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment of the court.

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), and (11).

(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

- (1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.
- (2a) Repealed by Session Laws 2002, ch. 126, s. 17.18, effective August 15, 2002.
- (2b) Participate in and successfully complete a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes.
- (3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).
- (3a) Repealed by Session Laws 1997-57, s. 3.
- (3b) Submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and abide by the rules adopted for that Program. Unless otherwise ordered by the court,

intensive supervision also requires multiple contacts by a probation officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.

- (3c) Remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.
- (4) Surrender his or her driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.
- (5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).
- (6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.
- (7) Submit at reasonable times to warrantless searches by a probation officer of his or her person and of his or her vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to his or her probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.
- (8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.
- (8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3,

113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.

- (9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.
- ~~(9a) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) the program is approved by the Domestic Violence Commission.~~
- (10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

- (1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).
- (2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- (3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- (4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.
- (5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the minor child's best interest to allow the probationer to reside in the same household with a minor child.
- (6) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

Defendants subject to the provisions of this subsection shall not be placed on unsupervised probation.

(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.

(c) Statement of Conditions. – A defendant released on supervised probation must be given a written statement explicitly setting forth the conditions on which he is being released. If any modification of the terms of that probation is subsequently made, he must be given a written statement setting forth the modifications.

(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of thirty dollars (\$30.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon ~~written~~ motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund.

(d) Restitution as a Condition of Probation. – As a condition of probation, a defendant may be required to make restitution or reparation to an aggrieved party or parties who shall be named by the court for the damage or loss caused by the defendant arising out of the offense or offenses committed by the defendant. When restitution or reparation is a condition imposed, the court shall take into consideration the factors set out in G.S. 15A-1340.35 and G.S. 15A-1340.36. As used herein, "reparation" shall include but not be limited to the performing of community services, volunteer work, or doing such other acts or things as shall aid the defendant in his rehabilitation. As used herein "aggrieved party" includes individuals, firms, corporations, associations, other organizations, and government agencies, whether federal, State or local, including the Crime Victims Compensation Fund established by G.S. 15B-23. A government agency may benefit by way of reparation even though the agency was not a party to the crime provided that when reparation is ordered, community service work shall be rendered only after approval has been granted by the owner or person in charge of the property or premises where the work will be done.

(e) Costs of Court and Appointed Counsel. – Unless the court finds there are extenuating circumstances, any person placed upon supervised or unsupervised probation under the terms set forth by the court shall, as a condition of probation, be required to pay all court costs and costs for appointed counsel or public defender in the case in which he was convicted. The cost of appointed counsel or public defender services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. The court shall determine the amount of those costs to be repaid and the method of payment.

(f) Repealed by Session Laws 1983, c. 561, s. 5.

(g) Probation Officer May Determine Payment Schedules. – If a person placed on supervised probation is required as a condition of that probation to pay any moneys to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule. The court may also authorize the probation officer to transfer the person to unsupervised probation after all the moneys are paid to the clerk. If the probation officer transfers a person to unsupervised probation, he must notify the clerk of that action."

SECTION 1.2. G.S. 143B-262 is amended by adding a new subsection to read:

"(e) The Department, in consultation with the Domestic Violence Commission, and in accordance with established best practices, shall establish a domestic violence treatment program for offenders sentenced to a term of imprisonment in the custody of the Department and whose official record includes a finding by the court that the offender committed acts of domestic violence.

The Department shall ensure that inmates, whose record includes a finding by the court that the offender committed acts of domestic violence, complete a domestic violence treatment program prior to the completion of the period of incarceration, unless other requirements, deemed critical by the Department, prevent program completion. In the event an inmate does not complete the program during the period of incarceration, the Department shall document, in the inmate's official record, specific reasons why that particular inmate did not or was not able to complete the program."

SECTION 1.3. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART II. DOMESTIC VIOLENCE TRAINING FOR LAW ENFORCEMENT

SECTION 2.1. G.S. 17C-6(a)(2) 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:

- ...
- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions."

SECTION 2.2. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the domestic violence education and training required by Section 2.1 of this part is incorporated into all Basic Law Enforcement Training (BLET) courses as soon as practicable. However, the domestic violence education and training shall be part of the required BLET curriculum no later than March 1, 2005.

SECTION 2.3. G.S. 17C-6(a)(14) 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:

- ...
- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include training in response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions."

SECTION 2.4. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the domestic violence in-service training required by Section 2.3 of this part is available no later than March 1, 2005.

SECTION 2.5. G.S. 17C-6(a) is amended by adding a new subdivision to read:

- "(15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (14) of this subsection."

SECTION 2.6. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the standards and training required for certification under Section 2.5 of this part are implemented no later than March 1, 2005.

SECTION 2.7. G.S. 17E-4(a)(2) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

- ...
- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent ~~position~~; position. The standards for entry level employment of officers shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term 'officers' shall include justice officers as defined in G.S. 17E-2(3)a., except that the term shall not include 'special deputy sheriffs' as defined in G.S. 17E-2(3)a.;"

SECTION 2.8. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the domestic violence education and training required by Section 2.7 of this part is incorporated into all Basic Law Enforcement Training (BLET) courses as soon as practicable. However, the domestic violence education and training shall be part of the required BLET curriculum no later than March 1, 2005.

SECTION 2.9. G.S. 17E-4(a)(10) reads as rewritten:

"(10) Enter into contracts incident to the administration of its authority pursuant to this ~~Chapter~~-Chapter;"

SECTION 2.10. G.S. 17E-4(a) is amended by adding a new subdivision to read:

"(11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term 'justice officer' shall include those defined in G.S. 17E-2(3)a., except that the term shall not include 'special deputy sheriffs' as defined in G.S. 17E-2(3)a.;"

SECTION 2.11. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the domestic violence in-service training required by Section 2.9 of this part is available no later than March 1, 2005.

SECTION 2.12. G.S. 17E-4(a) is amended by adding a new subdivision to read:

"(12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (11) of this subsection."

SECTION 2.13. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the standards and training required for certification under Section 2.11 of this part are implemented no later than March 1, 2005.

SECTION 2.14. The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall report to the General Assembly on or before March 1, 2005, on the exact standards implemented and the dates they were implemented.

SECTION 2.15. This part is effective when it becomes law.

PART III. STUDY OF ANTIVIOLENCE EDUCATION IN SCHOOLS AND TRAINING FOR SCHOOL PERSONNEL

SECTION 3.1. The North Carolina Department of Public Instruction, in collaboration with the State Board of Education, shall study the issue of antiviolence programs in the schools. In studying this issue, the Department shall answer the following:

- (1) How are schools currently addressing antiviolence in their curriculum;
- (2) How do current curriculums vary at each grade level, K-12;
- (3) Do currently used curriculums address physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence;
- (4) Should the State require every public school to have an antiviolence program of instruction incorporated into the curriculum;
- (5) Should an antiviolence program be required at every grade level;
- (6) What would be an appropriate curriculum for each grade level;
- (7) What minimum requirements should be present in an appropriate curriculum to ensure that the curriculum addresses physical violence, mental or verbal abuse, and domestic and relationship violence;
- (8) Should the State implement a particular antiviolence curriculum or allow individual schools to choose an appropriate curriculum from an approved list; and
- (9) What is the fiscal impact of implementing an antiviolence program for all schools, including additional staffing needs, if any.

In studying this issue, the Department shall examine some of the antiviolence programs that are in use throughout the country. In addition to any other specific programs examined, the Department shall review in detail the "Second Step" program developed by the Committee for Children.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee no later than November 15, 2004, and a final report to the Joint Legislative Education Oversight Committee and the General Assembly on or before January 15, 2005.

SECTION 3.2. The North Carolina Department of Public Instruction, in collaboration with the State Board of Education, shall study training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic violence and relationship violence. In studying this issue, the Department shall answer the following:

- (1) What type of training is currently available and/or required for school personnel.
- (2) Should training be required for school personnel.
- (3) If training should be required, which school personnel should be required to receive the training.
- (4) What type of training should be required.

- (5) What is the fiscal impact of requiring school personnel to receive such training.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee no later than November 15, 2004, and a final report to the Joint Legislative Education Oversight Committee and the General Assembly on or before January 15, 2005.

SECTION 3.3. This part is effective when it becomes law.

PART IV. LEGAL SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE

SECTION 4.1. Chapter 7A of the General Statutes is amended by adding a new Article to read:

"Article 37B.

"Domestic Violence Victim Assistance Act.

"§ 7A-474.6. Legislative findings and purpose.

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for domestic violence victims in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through established legal services programs in this State.

"§ 7A-474.7. Definitions.

The following definitions shall apply throughout this Article, unless the context otherwise requires:

- (1) "Domestic violence victim" means a resident of North Carolina that has been subjected to acts of domestic violence as defined in G.S. 50B-1. A resident is not required to seek a protective order under Chapter 50B of the General Statutes to qualify as a domestic violence victim under this Article.
- (2) "Legal assistance" means the provision of any legal services, as defined by Chapter 84 of the General Statutes, consistent with this Article. Provided, that all legal services provided hereunder shall be performed consistently with the Rules of Professional Conduct promulgated by the North Carolina State Bar. Provided, further, that no funds appropriated under this Article shall be used for lobbying to influence the passage or defeat of any legislation before any municipal, county, state, or national legislative body.
- (3) "Established legal services program" means the following not-for-profit corporations using State funds to serve the counties listed: Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Aid of North Carolina; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area.

"§ 7A-474.8. Eligible activities and limitations.

(a) Eligible Activities. – Funds appropriated under this Article shall be used only for the following purposes:

- (1) To provide legal assistance to domestic violence victims.

- (2) To provide education to domestic violence victims regarding their rights and duties under the law.
- (3) To involve the private bar in the representation of domestic violence victims pursuant to this Article.

(b) Eligible Cases. – The funds shall be prioritized by each legal services program to serve the greatest number of eligible clients, with emphasis placed on representation of clients needing legal assistance with proceedings pursuant to Chapter 50B of the General Statutes. Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

- (1) Actions for protective orders issued pursuant to Chapter 50B of the General Statutes;
- (2) Child custody and visitation issues; and
- (3) Legal services which ensure the safety of the client and the client's children.

(c) Limitations. – No funds appropriated under this Article shall be used for any of the following purposes:

- (1) To provide legal assistance with respect to any criminal proceeding; or
- (2) To provide legal assistance to any prisoner within the North Carolina Department of Correction with regard to the terms of that person's incarceration.

"§ 7A-474.9. Funds.

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the established legal services programs with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties, and Legal Aid Society of Northwest North Carolina receiving the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties. Funds shall be allocated to each program based on the counties served by that program using the following formula:

- (1) Twenty percent (20%) based on a fixed equal dollar amount for each county.
- (2) Eighty percent (80%) based on the rate of civil actions filed pursuant to Chapter 50B of the General Statutes in that county.

The North Carolina State Bar shall not use any of these funds for its administrative costs.

"§ 7A-474.10. Records and reports.

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the General Assembly on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the General Assembly shall be made by January 15 of each year beginning January 15, 2006."

SECTION 4.2. 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.
- (7) A fee in the amount of one hundred dollars (\$100.00) for support of the General Court of Justice to be remitted to the State Treasurer.

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application."

SECTION 4.3. G.S. 7A-305(a) reads as rewritten:

"(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen dollars (\$16.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which 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 in the same manner, for

the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

- (2) For support of the General Court of Justice, the sum of sixty-nine dollars (\$69.00) in the superior court, and the sum of fifty-four dollars (\$54.00) in the district court except that if the case is assigned to a magistrate the sum shall be forty-three dollars (\$43.00). Sums collected under this subdivision shall be remitted to the State Treasurer. 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~~G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.9."

SECTION 4.4. 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 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).
 - (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-six dollars (\$76.00) in the district court, including cases before a magistrate, and the sum of 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~~G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.9.
 - (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 4.5. Section 4.2 of this part becomes effective October 1, 2004, and applies to all motions filed on or after that date. Sections 4.3 and 4.4 of this part become effective October 1, 2004, and apply to fees assessed or paid on or after that date. The remainder of this part is effective when it becomes law.

PART V. DOMESTIC VIOLENCE ADVOCATES ON CHILD FATALITY TASK FORCE

SECTION 5.1. G.S. 7B-1402 reads as rewritten:

"§ 7B-1402. Task Force – creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of 35 members, 11 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

- (1) The Chief Medical Examiner;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The Director of the Governor's Youth Advocacy and Involvement Office;
- (7) The Superintendent of Public Instruction;
- (8) The Chairman of the State Board of Education;
- (9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (10) The Secretary of the Department of Health and Human Services;
- (11) The Director of the Administrative Office of the Courts;
- (12) A director of a county department of social services, appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
- (13) A representative from a Sudden Infant Death Syndrome counseling and education program, appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (14) A representative from the North Carolina Child Advocacy Institute, appointed by the Governor upon recommendation of the President of the Institute;
- (15) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;
- (16) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the

- Speaker of the House of Representatives upon recommendation of private child advocacy organizations;
- (17) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
 - (18) A representative from the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives upon recommendation of the League;
 - (18a) A representative from the North Carolina Domestic Violence Commission, appointed by the Speaker of the House of Representatives upon recommendation of the Director of the Commission;
 - (19) ~~Two public members,~~One public member, appointed by the Speaker of the House of Representatives;
 - (20) A county or municipal law enforcement officer, appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
 - (21) A district attorney, appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;
 - (22) A representative from the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate upon recommendation of the Association;
 - (22a) A representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore of the Senate upon recommendation of the Executive Director of the Coalition;
 - (23) ~~Two public members,~~One public member, appointed by the President Pro Tempore of the Senate; and
 - (24) Five members of the Senate, appointed by the President Pro Tempore of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as member. In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term."

SECTION 5.2. The public members serving on the Child Fatality Task Force on the effective date of this act shall complete their current terms. The new appointments contained in Section 1 of this act shall take effect at the end of those terms.

SECTION 5.3. This part is effective when it becomes law.

PART VI. STUDY OF MENTAL HEALTH SERVICES FOR DOMESTIC VIOLENCE VICTIMS

SECTION 6.1. The Department of Health and Human Services shall study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs. The plan will address providing diagnostic and referral services for any client suspected of having a mental illness or a substance abuse problem. The plan will also address the delivery of appropriate services to clients

meeting the target population criteria, as defined in the State Plan developed pursuant to G.S. 122C-102. Services must be best practices, as determined by the Department. The Department will consult various stakeholders in the domestic violence network of organizations. The Department will also consider the delivery of services to children identified through domestic violence programs. The Department shall also consider the fiscal impact, if any, of implementing the plan developed pursuant to this study.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services no later than October 1, 2004, and a final report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the General Assembly on or before January 15, 2005.

SECTION 6.2. This part is effective when it becomes law.

PART VII. STUDY OF CLE CREDIT FOR PRO BONO LEGAL REPRESENTATION

SECTION 7.1. The North Carolina State Bar, in cooperation with the North Carolina Bar Association, shall study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The Bar shall consider what types of pro bono legal representation, if any, should qualify for CLE credit and what administrative requirements would be necessary to provide such credit. The Bar shall specifically look at the possible benefits of providing CLE credit for pro bono legal representation to domestic violence victims. The Bar shall also consider the fiscal impact, if any, of providing the credit.

The Bar shall make a preliminary report to the House Select Committee on Domestic Violence no later than October 1, 2004, and a final report to the General Assembly on or before January 15, 2005.

SECTION 7.2. This part is effective when it becomes law.

PART VIII. DOMESTIC RELATIONSHIP AGGRAVATING FACTOR

SECTION 8.1. 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~~ confidence, including a domestic relationship, 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. 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 8.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date.

PART IX. CREATE STRANGULATION OFFENSE

SECTION 9.1. G.S. 14-32.4 reads as rewritten:

"§ 14-32.4. Assault inflicting serious bodily ~~injury~~-injury; strangulation; penalties.

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts physical injury by strangulation is guilty of a Class H felony."

SECTION 9.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART X. AMEND HABITUAL MISDEMEANOR ASSAULT STATUTE

SECTION 10.1. G.S. 14-33.2 reads as rewritten:

"§ 14-33.2. Habitual misdemeanor assault.

A person commits the offense of habitual misdemeanor assault if that person violates any of the provisions of ~~G.S. 14-33(e) or G.S. 14-34~~G.S. 14-33 and causes physical injury, or G.S. 14-34, and has two or more prior convictions for either misdemeanor or felony assault, with the earlier of the two prior convictions occurring no more than 15 years prior to the date of the current violation~~been convicted of five or more prior misdemeanor convictions, two of which were assaults.~~ A conviction under this section shall not be used as a prior conviction for any other habitual offense statute. A person convicted of violating this section is guilty of a Class H felony."

SECTION 10.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this part are not abated or affected by this part, and the statutory provisions that would be applicable but for this part remain applicable to those prosecutions.

PART XI. DOMESTIC VIOLENCE OFFENSE TRACKING

SECTION 11.1. Article 86 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1382.1. Reports of disposition; domestic violence; sentencing.

(a) When a defendant is found guilty of an offense involving assault, or communicating a threat, the presiding judge shall determine whether the defendant and victim had a personal relationship. If the judge determines that there was a personal relationship between the defendant and the victim, then the judge shall indicate on the form reflecting the judgment that the case involved domestic violence. The clerk of court shall insure that the official record of the defendant's conviction includes the court's determination, so that any inquiry into the defendant's criminal record will reflect that the offense involved domestic violence.

(b) If the presiding judge determines that there was a personal relationship between the defendant and the victim, and a sentence to community punishment is imposed, the judge shall determine whether the defendant shall comply with one or more of the special conditions of probation set forth at G.S. 15A-1343(b1), in addition

to any other authorized punishment. Notwithstanding the provisions of G.S. 15A-1340.11(6)c, the court may require the defendant to comply with the provisions of G.S. 15A-1343(b1)(3c).

(c) The following definitions apply to this section:

- (1) "Personal relationship" is as defined in G.S. 50B-1(b).
- (2) "An offense involving assault" includes any offense where an assault occurred, whether or not the conviction is for an offense under Article 8 of Chapter 14 of the General Statutes.
- (3) "Inquiry" shall include any lawful review of the criminal records of persons convicted of an offense in this State, whether by law enforcement personnel or by private individuals."

SECTION 11.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date.

PART XII. STUDY OF MISDEMEANOR OFFENSE CLASSIFICATIONS

SECTION 12.1. The General Assembly finds that the North Carolina Sentencing and Policy Advisory Commission has adopted formal criteria for classifying felony offenses. The Sentencing Commission has identified three general types of harms: harms to persons (including both physical and mental injury); harms to property; and harms to society. The degrees of harm are divided into three levels:

- (1) Injury to person, property, or society;
- (2) Significant injury to person, property, or society; and
- (3) Serious injury to person, property, or society. The stated purpose of establishing the criteria was "to create a rational and consistent philosophical basis for classifying offenses; to assure proportionality in severity; and to provide a guidepost for classifying new crimes in the future."

In contrast to the felony classification criteria, the Commission did not create classification criteria for misdemeanors. However, the current misdemeanor sentencing laws include an assault offense that has serious injury as an element – even though "serious injury to a person" is a category of harm for felony offense classification. The General Assembly finds that the classification of assault offenses that involve serious injury as misdemeanors is inconsistent with the Sentencing Commission's classification of felonies based on harm.

The North Carolina Sentencing and Policy Advisory Commission, pursuant to its statutory responsibilities under Article 4 of Chapter 164 of the General Statutes, shall study the classification of misdemeanor offenses. In particular, the Commission shall examine the classification of assault offenses in relation to property offenses, crimes against society, and felony assault offenses. The Commission shall develop a system for classifying misdemeanor offenses on the basis of their severity. The Commission may consider reclassifying existing offenses and creating new offenses in order to insure proportionality and consistency. The Commission shall report its findings and recommendations to the 2005 General Assembly, 2005 Regular Session. The report shall describe the status of the Commission's work and shall include any completed policy recommendations and proposed legislation. The Commission shall make a final report to the 2005 General Assembly, 2006 Regular Session.

SECTION 12.2. This part is effective when it becomes law.

PART XIII. WARRANTLESS ARREST FOR VIOLATION OF PRETRIAL RELEASE CONDITIONS

SECTION 13.1. G.S. 15A-401 reads as rewritten:

"§ 15A-401. Arrest by law-enforcement officer.

- (a) Arrest by Officer Pursuant to a Warrant. –
- (1) Warrant in Possession of Officer. – An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.
 - (2) Warrant Not in Possession of Officer. – An officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible. This subdivision applies even though the arrest process has been returned to the clerk under G.S. 15A-301.
- (b) Arrest by Officer Without a Warrant. –
- (1) Offense in Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.
 - (2) Offense Out of Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe:
 - a. Has committed a felony; or
 - b. Has committed a misdemeanor, and:
 1. Will not be apprehended unless immediately arrested, or
 2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or
 - c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or
 - d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or
 - e. Has committed a misdemeanor under ~~G.S. 50B-4.1(a)~~G.S. 50B-4.1(a); or
 - f. Has violated a pretrial release order entered under G.S. 15A-534.1(a)(2).
 - (3) Repealed by Session Laws 1991, c. 150.
 - (4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to G.S. 15A-511 and G.S. 15A-534.5.
- (c) How Arrest Made. –
- (1) An arrest is complete when:
 - a. The person submits to the control of the arresting officer who has indicated his intention to arrest, or
 - b. The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.
 - (2) Upon making an arrest, a law-enforcement officer must:

- a. Identify himself as a law-enforcement officer unless his identity is otherwise apparent,
 - b. Inform the arrested person that he is under arrest, and
 - c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.
- (d) Use of Force in Arrest. –
- (1) Subject to the provisions of subdivision (2), a law-enforcement officer is justified in using force upon another person when and to the extent that he reasonably believes it necessary:
 - a. To prevent the escape from custody or to effect an arrest of a person who he reasonably believes has committed a criminal offense, unless he knows that the arrest is unauthorized; or
 - b. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.
 - (2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:
 - a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;
 - b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or
 - c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.
- (e) Entry on Private Premises or Vehicle; Use of Force. –
- (1) A law-enforcement officer may enter private premises or a vehicle to effect an arrest when:
 - a. The officer has in his possession a warrant or order or a copy of the warrant or order for the arrest of a person, provided that an officer may utilize a copy of a warrant or order only if the original warrant or order is in the possession of a member of a law enforcement agency located in the county where the officer is employed and the officer verifies with the agency that the warrant is current and valid; or the officer is authorized to arrest a person without a warrant or order having been issued,
 - b. The officer has reasonable cause to believe the person to be arrested is present, and

- c. The officer has given, or made reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice would present a clear danger to human life.
- (2) The law-enforcement officer may use force to enter the premises or vehicle if he reasonably believes that admittance is being denied or unreasonably delayed, or if he is authorized under subsection (e)(1)c to enter without giving notice of his authority and purpose.
- (f) Use of Deadly Weapon or Deadly Force to Resist Arrest. –
 - (1) A person is not justified in using a deadly weapon or deadly force to resist an arrest by a law-enforcement officer using reasonable force, when the person knows or has reason to know that the officer is a law-enforcement officer and that the officer is effecting or attempting to effect an arrest.
 - (2) The fact that the arrest was not authorized under this section is no defense to an otherwise valid criminal charge arising out of the use of such deadly weapon or deadly force.
 - (3) Nothing contained in this subsection (f) shall be construed to excuse or justify the unreasonable or excessive force by an officer in effecting an arrest. Nothing contained in this subsection (f) shall be construed to bar or limit any civil action arising out of an arrest not authorized by this Article."

SECTION 13.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART XIV. CONFORM STATE FIREARMS LAW TO FEDERAL LAW

SECTION 14.1. G.S. 14-415.1 reads as rewritten:

"§ 14-415.1. Possession of firearms, etc., by felon prohibited.

(a) It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any ~~handgun or other firearm~~ firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer.

Every person violating the provisions of this section shall be punished as a Class G felon.

~~Nothing in this subsection would prohibit the right of any person to have possession of a firearm within his own home or on his lawful place of business.~~

(b) Prior convictions which cause disenfranchisement under this section shall only include:

- (1) Felony convictions in North Carolina that occur before, on, or after December 1, 1995; and
- (2) Repealed by Session Laws 1995, c. 487, s. 3.
- (3) Violations of criminal laws of other states or of the United States that occur before, on, or after December 1, 1995, and that are substantially similar to the crimes covered in subdivision (1) which are punishable where committed by imprisonment for a term exceeding one year.

When a person is charged under this section, records of prior convictions of any offense, whether in the courts of this State, or in the courts of any other state or of the United States, shall be admissible in evidence for the purpose of proving a violation of this section. The term "conviction" is defined as a final judgment in any case in which felony punishment, or imprisonment for a term exceeding one year, as the case may be, is permissible, without regard to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a plea of guilty by the defendant to such an offense certified to a superior court of this State from the custodian of records of any state or federal court shall be prima facie evidence of the facts so certified.

(c) The indictment charging the defendant under the terms of this section shall be separate from any indictment charging him with other offenses related to or giving rise to a charge under this section. An indictment which charges the person with violation of this section must set forth the date that the prior offense was committed, the type of offense and the penalty therefore, and the date that the defendant was convicted or plead guilty to such offense, the identity of the court in which the conviction or plea of guilty took place and the verdict and judgment rendered therein."

SECTION 14.2. This part becomes effective December 1, 2004, 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 statutory provisions that would be applicable but for this act remain applicable to those prosecutions.

PART XV. SPECIFICALLY ALLOW CROSS-WARRANTS

SECTION 15.1. G.S. 15A-304 reads as rewritten:

"§ 15A-304. Warrant for arrest.

(a) **Definition.** – A warrant for arrest consists of a statement of the crime of which the person to be arrested is accused, and an order directing that the person so accused be arrested and held to answer to the charges made against him. It is based upon a showing of probable cause supported by oath or affirmation.

(b) **When Issued.** – A warrant for arrest may be issued, instead of or subsequent to a criminal summons, when it appears to the judicial official that the person named should be taken into custody. Circumstances to be considered in determining whether the person should be taken into custody may include, but are not limited to, failure to appear when previously summoned, facts making it apparent that a person summoned will fail to appear, danger that the person accused will escape, danger that there may be injury to person or property, or the seriousness of the offense.

(c) **Statement of the Crime.** – The warrant must contain a statement of the crime of which the person to be arrested is accused. No warrant for arrest, nor any arrest made pursuant thereto, is invalid because of any technicality of pleading if the statement is sufficient to identify the crime.

(d) **Showing of Probable Cause.** – A judicial official may issue a warrant for arrest only when he is supplied with sufficient information, supported by oath or affirmation, to make an independent judgment that there is probable cause to believe that a crime has been committed and that the person to be arrested committed it. The information must be shown by one or more of the following:

- (1) Affidavit;
- (2) Oral testimony under oath or affirmation before the issuing official; or
- (3) Oral testimony under oath or affirmation presented by a sworn law enforcement officer to the issuing official by means of an audio and video transmission in which both parties can see and hear each other.

Prior to the use of audio and video transmission pursuant to this subdivision, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the senior regular resident superior court judge and the chief district court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts.

If the information is insufficient to show probable cause, the warrant may not be issued. A judicial official shall not refuse to issue a warrant for the arrest of a person solely because a prior warrant has been issued for the arrest of another person involved in the same matter.

(e) Order for Arrest. – The order for arrest must direct that a law-enforcement officer take the defendant into custody and bring him without unnecessary delay before a judicial official to answer to the charges made against him.

(f) Who May Issue. – A warrant for arrest, valid throughout the State, may be issued by:

- (1) A Justice of the Supreme Court.
- (2) A judge of the Court of Appeals.
- (3) A judge of the superior court.
- (4) A judge of the district court, as provided in G.S. 7A-291.
- (5) A clerk, as provided in G.S. 7A-180 and 7A-181.
- (6) A magistrate, as provided in G.S. 7A-273."

SECTION 15.2. This part is effective when it becomes law.

PART XVI. CLARIFY NURSE'S PRIVILEGE

SECTION 16.1. G.S. 8-53.13 reads as rewritten:

"§ 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. Nothing in this section shall preclude the admission of otherwise admissible written or printed medical records in any judicial proceeding, in accordance with the procedure set forth in G.S. 8-44.1, after a determination by the court that disclosure should be compelled as set forth herein."

SECTION 16.2. G.S. 8-53.1 reads as rewritten:

"§ 8-53.1. Physician-patient and nurse privilege waived in child abuse.

Notwithstanding the provisions of G.S. 8-53, 8-53 and G.S. 8-53.13, the physician-patient or nurse privilege shall not be a ground for excluding evidence regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the North Carolina Juvenile Code, Chapter 7B of the General Statutes of North Carolina."

SECTION 16.3. This part becomes effective December 1, 2004.

PART XVII. TEMPORARY CHILD CUSTODY IN DOMESTIC VIOLENCE HEARINGS

SECTION 17.1. G.S. 50-13.2(b) reads as rewritten:

"(b) An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to

two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic ~~violence~~-violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2), and (3). ~~Such orders may include a designation of time and place for the exchange of children away from the abused party, the participation of a third party, or supervised visitation.~~ If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in determining custody or visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child."

SECTION 17.2. G.S. 50B-2 reads as rewritten:

"§ 50B-2. Institution of civil action; motion for emergency relief; temporary orders. orders; temporary custody.

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5.

(b) Emergency Relief. – A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself or a minor child. A hearing on a motion for emergency relief, where no ex parte order is entered, shall be held after five days' notice of the hearing to the other party or after five days from the date of service of process on the other party, whichever occurs first, provided, however, that no hearing shall be required if the service of process is not completed on the other party. If the party is proceeding pro se and does not request an ex parte hearing, the clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c) Ex Parte Orders. – Prior to the hearing, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter ~~such~~ orders as it deems necessary to protect the aggrieved party or minor children from ~~such~~ those acts provided, however, that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of ~~bodily~~ physical or emotional injury or sexual abuse. If the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the court shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the court finds that the order is in the best interest of the minor child and is necessary for the safety of the minor child. If the court determines that it is in the best interest of the

minor child for the other party to have contact with the minor child or children, the court shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. Upon the issuance of an ex parte order under this subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later. If an aggrieved party acting pro se requests ex parte relief, the clerk of superior court shall schedule an ex parte hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the clerk of superior court in any other county within the same judicial district who shall schedule an ex parte hearing with the district court division of the General Court of Justice by the end of the next day on which said court division is in session in that county. Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the magistrate may enter ~~such~~ orders as it deems necessary to protect the aggrieved party or minor children from ~~such~~ those acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of ~~bodily~~ physical or emotional injury or sexual abuse. If the magistrate finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the magistrate shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the magistrate finds that the order is in the best interest of the minor child and is necessary for the safety of the minor child. If the magistrate determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the magistrate shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge by the end of the next day on which the district court is in session in the county in

which the action was filed. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section.

(c2) The authority granted to authorized magistrates to award temporary child custody ~~to~~ pursuant to subsection (c1) of this section and pursuant to G.S. 50B-3(a)(4) is granted subject to custody rules to be established by the supervising chief district judge of each judicial district.

(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms which are necessary or appropriate to enable them to proceed pro se pursuant to this section. The Clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

SECTION 17.3. G.S. 50B-3(a)(4) reads as rewritten:

"§ 50B-3. Relief.

(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order to bring about a cessation of acts of domestic violence. The orders may:

- ...
- (4) Award temporary custody of minor children and establish temporary visitation ~~rights;~~ rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process;

..."

SECTION 17.4. G.S. 50B-3 is amended by adding the following new subsection to read:

"(a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights as follows:

- (1) In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.
- (2) For purposes of determining custody and visitation issues, the court shall consider:
 - a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
 - b. Whether the minor child was present during acts of domestic violence.
 - c. Whether a weapon was used or threatened to be used during any act of domestic violence.
 - d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.
 - e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.
 - f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
 - g. Whether there is a pattern of abuse against an aggrieved party or the minor child.
 - h. Whether a party has abused or endangered the minor child during visitation.

- i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.
 - j. Whether a party has improperly concealed or detained the minor child.
 - k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.
- (3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:
- a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.
 - b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.
 - c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.
 - d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child.
 - e. Ordering the noncustodial parent to pay the costs of supervised visitation.
 - f. Prohibiting overnight visitation.
 - g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.
 - h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.
 - i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.

- (4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter."

SECTION 17.5. G.S. 50B-3(b) reads as rewritten:

"(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one 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~~ order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. 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, 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."

SECTION 17.6. This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

PART XVIII. PROHIBIT EMPLOYMENT DISCRIMINATION AGAINST DOMESTIC VIOLENCE VICTIMS

SECTION 18.1. Chapter 50B of the General Statutes is amended by adding a new section to read:

"§ 50B-5.5. Employment discrimination unlawful.

(a) No employer shall discharge, demote, deny a promotion, or discipline an employee because the employee took reasonable time off from work to obtain or attempt to obtain relief under this Chapter. An employee who is absent from the workplace shall follow the employer's usual time-off policy or procedure, including advance notice to the employer, when required by the employer's usual procedures, unless an emergency prevents the employee from doing so. An employer may require documentation of any emergency that prevented the employee from complying in advance with the employer's usual time-off policy or procedure, or any other information available to the employee which supports the employee's reason for being absent from the workplace.

(b) The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to the Article."

SECTION 18.2. G.S. 95-241(a) reads as rewritten:

"(a) No person shall discriminate or take any retaliatory action against an employee because the employee in good faith does or threatens to do any of the following:

- (1) File a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to any of the following:
 - a. Chapter 97 of the General Statutes.
 - b. Article 2A or Article 16 of this Chapter.
 - c. Article 2A of Chapter 74 of the General Statutes.
 - d. G.S. 95-28.1.
 - e. Article 16 of Chapter 127A of the General Statutes.
 - f. G.S. 95-28.1A.
- (2) Cause any of the activities listed in subdivision (1) of this subsection to be initiated on an employee's behalf.
- (3) Exercise any right on behalf of the employee or any other employee afforded by Article 2A or Article 16 of this Chapter or by Article 2A of Chapter 74 of the General Statutes.

- (4) Comply with the provisions of Article 27 of Chapter 7B of the General Statutes.
- (5) Exercise rights under Chapter 50B. Actions brought under this subdivision shall be in accordance with the provisions of G.S. 50B-5.5."

SECTION 18.3. This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

PART XIX. PRIVACY FOR 50B INTAKE

SECTION 19.1. G.S. 50B-2(d) reads as rewritten:

"(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms ~~which~~that are necessary or appropriate to enable them to proceed pro se pursuant to this section. The clerk shall, whenever feasible, provide a private area for complainants to fill out forms and make inquiries. ~~The Clerk~~clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

SECTION 19.2. This part is effective when it becomes law.

PART XX. TRAINING FOR JUDGES AND COURT PERSONNEL

SECTION 20.1. The North Carolina Supreme Court is respectfully requested to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases.

SECTION 20.2. The Administrative Office of the Courts shall study the issue of training for court personnel in the area of domestic violence. The study shall examine the following:

- (1) The extent to which training is currently being done.
- (2) The need for additional training.
- (3) The amount and types of training that would be most appropriate.
- (4) The potential costs and sources of funding for any additional training.

The Administrative Office of the Courts shall report its findings and recommendations to the 2005 Regular Session of the 2005 General Assembly.

SECTION 20.3. This part is effective when it becomes law.

PART XXI. EFFECTIVE DATE

SECTION 21. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law upon approval of the Governor at 1:32 p.m. on the 12th day of August, 2004.

H.B. 831

Session Law 2004-187

AN ACT TO ESTABLISH THE NORTH CAROLINA SALTWATER FISHING FUND AND LICENSE AND TO PROVIDE THAT VACANCIES MAY BE FILLED IN CERTAIN OFFICES DURING A HOLDOVER PERIOD.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that saltwater fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls, subject to federal and State law and rules adopted by the Marine Fisheries Commission pursuant to G.S. 143B-289.52; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"Article 14C.

"North Carolina Saltwater Fishing Fund.

"§ 113-175. Definitions.

As used in this Article:

- (1) 'Board of Trustees' means the Board of Trustees of the Fund.
- (2) 'Fund' means the North Carolina Saltwater Fishing Fund.
- (3) 'Investment income' means interest earned from the investment of license revenues and the proceeds of any gifts, grants, or contributions deposited in the Fund.
- (4) 'License revenues' means the net proceeds from the sale of Saltwater Fishing Licenses issued under G.S. 113-174.2. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

"§ 113-175.1. North Carolina Saltwater Fishing Fund.

There is hereby established the North Carolina Saltwater Fishing Fund as a nonreverting fund in the office of the State Treasurer. The purpose of the Fund is to enhance the fishery resources of the State for commercial and recreational fishing.

License revenues and the proceeds of any gifts, grants, and contributions to the State that are specifically designated for inclusion in the Fund shall be deposited in the Fund. The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

"§ 113-175.2. Board of Trustees of the North Carolina Saltwater Fishing Fund.

(a) Board of Trustees Established. – There is hereby established the Board of Trustees of the North Carolina Saltwater Fishing Fund. The Board of Trustees shall be independent, but for administrative purposes shall be located under the Department of Environment and Natural Resources.

(b) Membership; Qualifications. – The Board of Trustees shall consist of 11 members as follows:

- (1) One individual appointed by the Governor, who has purchased a current Saltwater Fishing License at the time of the appointment.
- (2) One individual appointed by the Governor, who has purchased a current Saltwater Fishing License at the time of the appointment.
- (3) One individual appointed by the Governor, who has purchased a current Saltwater Fishing License at the time of the appointment.
- (4) One individual appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (5) One individual appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (6) One individual appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (7) One individual appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (8) One individual appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (9) One individual appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, who has purchased a current Saltwater Fishing License at the time of appointment.
- (10) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Board of Trustees.
- (11) The Chair of the Marine Fisheries Commission, or the Chair's designee shall serve as a nonvoting, ex officio member of the Board of Trustees.

(c) Officers. – The Governor shall appoint a member of the Board of Trustees to serve as Chair. The Chair shall serve at the pleasure of the Governor. The Board of

Trustees shall elect one of its members to serve as Vice-Chair. The Vice-Chair shall serve a one-year term beginning July 1 and ending June 30 of the following year. The Vice-Chair may serve any number of consecutive terms.

(d) Terms. – The term of office of members of the Board of Trustees appointed under subdivisions (1) through (9) of subsection (b) of this section is three years. A member appointed under subdivisions (1) through (9) of subsection (b) of this section may be reappointed to any number of successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under subdivisions (1), (4), and (7) of subsection (b) of this section shall expire on June 30 of years evenly divisible by three. The term of members appointed under subdivisions (2), (5), and (8) of subsection (b) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (3), (6), and (9) of subsection (b) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. An individual appointed under subdivisions (1) through (9) of subsection (b) of this section must continue to have a current Saltwater Fishing License in order to remain eligible to serve on the Board of Trustees.

(e) Vacancies. – An appointment to fill a vacancy shall be for the unexpired balance of the term. If a vacancy occurs for 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.

(f) Meetings; Frequency. – 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. Six members of the Board of Trustees shall constitute a quorum for the transaction of business.

(g) Per Diem and Expenses. – The Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, travel, and subsistence expenses shall be paid from the Fund.

"§ 113-175.3. Allocation of investment income of the Fund; other powers and duties.

(a) Disbursement of Funds. – The State Treasurer shall disburse investment income only upon the written direction of the Board of Trustees.

- (1) The Board of Trustees may authorize the disbursement of investment income that accrues to the Fund for:

 - a. Resource and habitat enhancement, including, but not limited to, creation of natural nursery areas, construction of artificial reefs, restoration and enhancement of submerged aquatic vegetation, creation and restoration of oyster habitat, and acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat.
 - b. Grants to fund fisheries management research for specifically designated species.
 - c. Acquisition of land or an interest in land that provides for the enhancement of fishery habitat or public access to coastal fishing waters.

- d. Purchase or construction of public beach access areas and public marinas. If the Board of Trustees purchases or constructs a public marina, it may establish a boat docking fee.
 - e. Emergency dredging for the restoration of access to public fishing areas.
 - f. Establishment of scholarships for individuals pursuing degrees in marine sciences.
 - g. Administrative and operating expenses of the Board of Trustees.
- (2) The Board of Trustees shall not authorize the disbursement of investment income that accrues to the Fund for law enforcement purposes.
- (b) Applicants. – Any of the following are eligible to apply for monies from the Fund:
- (1) A State agency.
 - (2) A local government or other political subdivision of the State or a combination of such entities.
 - (3) A nonprofit corporation whose primary purpose is the conservation, preservation, or restoration of the marine resources of the State.
- (c) Administrative and Operating Expenses. – No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum of one million two hundred fifty thousand dollars (\$1,250,000), whichever is greater, may be used each fiscal year for administrative and operating expenses of the Board of Trustees.
- (d) Acquisition of Real Property. – The Board of Trustees may acquire real property by purchase, negotiation, gift, or devise. Any acquisition of real property by the Board of Trustees must be reviewed and approved by the Council of State and the deed for the real property subject to approval of the Attorney General before the acquisition can become effective. Nothing in this section shall allow the Board of Trustees to acquire real property by eminent domain.
- (e) Real Property Management. – The Board of Trustees may designate managers or managing agencies of the real property acquired under this Article.
- (f) Designation of Locations for Purchase and Renewal of Licenses. – Pursuant to G.S. 113-174.2, the Board of Trustees may designate locations at which Saltwater Fishing Licenses may be purchased and renewed.
- (g) The Board of Trustees may adopt rules to implement this Article.

"§ 113-175.4. Report.

The Chair of the Board of Trustees shall submit to the Joint Legislative Commission on Seafood and Aquaculture by September 30 of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

SECTION 2. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"Article 14B.

"Saltwater Fishing Licenses.

"§ 113-174. Definitions.

As used in this Article:

- (1) 'Commission' means the Marine Fisheries Commission.
- (2) 'SFL' means Saltwater Fishing License.

- (3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.
- (4) 'North Carolina resident' means an individual who is a resident within the meaning of G.S. 113-130(4).
- (5) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:
 - a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.
 - b. Except as provided in G.S. 113-261.

"§ 113-174.1. General provisions governing licenses.

(a) License Purchase Required to Engage in Recreational Fishing. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters without having purchased a current license required by this Article. It is unlawful for any individual to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. – A license issued under this Article does not authorize an individual who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any individual who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. – It is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) General Enforcement. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters in the State without providing the individual's name and residence address upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(e) Enforcement for Charterboats and Headboats. – An inspector or other law enforcement officer may only verify the licensure of an individual fishing from a charterboat or headboat after the charterboat or headboat has returned to shore and the individual has disembarked from the charterboat or headboat. Except as provided in G.S. 113-174.2(d), each individual on board a charterboat or headboat engaged in recreational fishing, other than crew members who do not engage in recreational fishing, must have purchased a current SFL issued pursuant to G.S. 113-174.2. An owner, operator, or crew member of a charterboat or headboat is not responsible for the licensure of a customer fishing from a charterboat or headboat.

(f) Cancellation. – The Division may cancel a license issued on the basis of false information supplied by the license applicant. A cancelled license is void from the date of issuance.

(g) Reporting Requirements. – A person licensed under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"§ 113-174.2. Saltwater Fishing License.

(a) License Required. – Except as otherwise provided in this Article, it is unlawful for any individual to engage in recreational fishing in coastal fishing waters by means of recreational gear without having purchased a current SFL issued under this

section. It is unlawful for any individual fishing under a SFL to possess fish in excess of recreational possession limits.

(b) Purchase; Renewal. – Any license issued under this section may be purchased or renewed at designated offices of the Division; from the Division by mail, electronic mail, the Internet, or telephone; or at locations designated by the North Carolina Saltwater Fishing Fund Board of Trustees.

(c) Types of SFLs; Fees; Duration. – The Division shall issue the following SFLs:

- (1) One-year SFL. – \$15.00. This license is valid for a period of one year from the date of issuance.
- (2) Two-year SFL. – \$30.00. This license is valid for a period of two years from the date of issuance.
- (3) Three-year SFL. – \$45.00. This license is valid for a period of three years from the date of issuance.
- (4) Seven-day SFL. – \$1.00. This license is valid for a period of seven consecutive days. An individual may purchase this license only once in any 12-month period.
- (5) Subsistence SFL. – An applicant for a license under this subdivision shall provide to the Division a certification from the Department of Health and Human Services that the individual falls below the federal poverty level. A license issued under this subdivision shall be issued without charge and is valid for a period of one year from the date of issuance.
- (6) Lifetime SFL. – This license is valid for the lifetime of the licensee. The fee for the Lifetime SFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:
 - a. Younger than six years of age \$100.00
 - b. Six years of age to younger than 11 years of age \$150.00
 - c. 11 years of age to younger than 18 years of age \$200.00
 - d. 18 years of age or older \$500.00

(d) Exemptions. – An individual may engage in recreational fishing by means of recreational gear without having purchased a SFL if the individual is 18 years of age or younger and is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent."

SECTION 3. G.S. 113-169.2 reads as rewritten:

"§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.

(a) ~~License or Endorsement Necessary to Take or Sell Shellfish. – Requirement.~~ – It is unlawful for an individual to take shellfish from the public or private grounds of the State by mechanical means or in quantities greater than the personal use limits set forth in subsection (i) of this section by any means as part of a commercial fishing operation without holding either a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks only to take and sell shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(b) Repealed by Session Laws 1998-225, s. 4.17.

(c) Fees. – Shellfish licenses shall be issued annually upon payment of a fee of twenty-five dollars (\$25.00) upon proof that the license applicant is a North Carolina resident.

~~(d) License Available for Inspection.— It is unlawful for any individual to take shellfish in quantities greater than the personal use limits set forth in subsection (i) of this section from the public or private grounds of the State without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.~~

(e) Repealed by Session Laws 1998-225, s. 4.17.

(f) Name or Address Change. – In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

(h) Exemption. – Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, ~~grandparent's~~ grandparent's, or guardian's shellfish ~~license~~ license or a parent's, grandparent's, or guardian's shellfish endorsement of a SCFL.

~~(i) Taking Shellfish Without a License for Personal Use.—~~

~~(1) A person may take shellfish for personal use without obtaining a license under this section in quantities up to:~~

~~a. One bushel of oysters per day.~~

~~b. One half bushel of scallops per day.~~

~~c. One hundred clams per day.~~

~~d. Ten conchs per day.~~

~~e. One hundred mussels per day.~~

~~(2) Two or more persons who are using a vessel to take shellfish may take shellfish for personal use without obtaining a license under this section in quantities up to:~~

~~a. Two bushels of oysters per day.~~

~~b. One bushel of scallops per day.~~

~~c. Two hundred clams per day.~~

~~d. Twenty conchs per day.~~

~~e. Two hundred mussels per day."~~

SECTION 4. G.S. 113-173(j)(4) is repealed.

SECTION 5. G.S. 120-122 reads as rewritten:

"§ 120-122. Vacancies in legislative appointments.

When a vacancy ~~occurs, other than by the expiration of term,~~ occurs in any office subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives, upon the recommendation of the President Pro Tempore of the Senate, or upon the recommendation of the President of the Senate, and the vacancy occurs either: (i) after election of the General Assembly but before convening of the regular session; (ii) when the General Assembly has adjourned to a date certain, which date is more than 20 days after the date of adjournment; ~~or~~ (iii) after

sine die adjournment of the regular ~~session~~, session; or (iv) when the term of office expires and a successor has not been appointed, then the Governor may appoint a person to serve until the expiration of the term or until the General Assembly fills the vacancy, whichever occurs first. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. When a person is holding over in office after the expiration of the term, for the purpose of this section that office may be filled as if it were vacant. Before making an appointment, the Governor shall consult the officer who recommended the original appointment to the General Assembly (the Speaker of the House of Representatives, the President Pro Tempore of the Senate, or the President of the Senate), and ask for a written recommendation. After receiving the written recommendation, the Governor must within 30 days either appoint the person recommended or inform the officer who made the recommendation that he is rejecting the recommendation. Failure to act within 30 days as required under the provisions of the preceding sentence shall be deemed to be approval of the candidate, and the candidate shall be eligible to enter the office in as full and ample extent as if the Governor had executed the appointment. The Governor shall not appoint a person other than the person so recommended. Any position subject to initial appointment by the General Assembly but not filled prior to sine die adjournment of the Session at which the position was created or adjournment to a date certain which date is more than 20 days after the date of adjournment of the session at which the position was created may be filled by the Governor under this section as if it were a vacancy occurring after the General Assembly had made an appointment."

SECTION 6. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL~~, RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

SECTION 7. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear."

SECTION 8. G.S. 143B-289.52 is amended by adding a new subsection to read:

"(h) Neither the Commission nor the Department may disclose personal information provided by an applicant for a license issued under Article 14A or 14B of Chapter 113 of the General Statutes."

SECTION 9. In order to establish a schedule of staggered terms of three years for the Board of Trustees of the North Carolina Saltwater Fishing Fund, the terms of members of the Board initially filling positions established by subdivisions (1), (4), and (7) of subsection (b) of G.S. 113-175.2, as enacted by Section 1 of this act, shall begin on the date the member is appointed and duly qualified and shall expire on June 30, 2010; the terms of members of the Board initially filling positions established by subdivisions (2), (5), and (8) of subsection (b) of G.S. 113-175.2, as enacted by Section 1 of this act, shall begin on the date the member is appointed and duly qualified and

shall expire on June 30, 2009; the terms of members of the Commission initially filling positions established by subdivisions (3), (6), and (9) of subsection (b) of G.S. 113-175.2, as enacted by Section 1 of this act, shall begin on the date the member is appointed and duly qualified and shall expire on June 30, 2008.

SECTION 10. Notwithstanding G.S. 113-175.3, the Board of Trustees of the North Carolina Saltwater Fishing Fund may authorize disbursement and the State Treasurer may disburse up to fifty percent (50%) of the license revenues in the North Carolina Saltwater Fishing Fund during fiscal years 2005-2006 through 2015-2016.

SECTION 11. The first report required pursuant to G.S. 113-175.4, as enacted by Section 1 of this act, is due by September 30, 2005.

SECTION 12.(a) The Board of Trustees of the North Carolina Saltwater Fishing Fund shall develop a plan for the implementation of Section 2 of this act. The plan shall provide that:

- (1) Licenses may be purchased or renewed via mail, electronic mail, the Internet, or telephone.
- (2) The licensing and renewal system shall be fully automated and shall allow for the purchase or renewal of licenses at any time, without delay.
- (3) The licensing system shall not require individuals to hold a physical license.
- (4) Verification of licensure shall be accomplished by an individual providing only the individual's name and residence address.

SECTION 12.(b) The Board of Trustees of the North Carolina Saltwater Fishing Fund shall determine a date by which the plan developed pursuant to subsection (a) of this section would be fully implemented.

SECTION 12.(c) The Board of Trustees of the North Carolina Saltwater Fishing Fund shall study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Board shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what the system should be and how it should be implemented.

SECTION 12.(d) A report on the implementation plan, the determination of the date of full implementation, and the unified fishing license study required by subsections (a), (b), and (c) of this section shall be submitted to the Joint Legislative Commission on Seafood and Aquaculture no later than April 15, 2005.

SECTION 12.(e) Notwithstanding the provisions of G.S. 113-175.2 as enacted by Section 1 of this act, the requirement that members of the Board of Trustees of the North Carolina Saltwater Fishing Fund must have purchased a current Saltwater Fishing License at the time of appointment and the requirement that members of the Board of Trustees must continue to have a current Saltwater Fishing License in order to remain eligible to serve on the Board of Trustees shall not apply until such time as the Saltwater Fishing License becomes available.

SECTION 13. There is appropriated from the General Fund to the North Carolina Saltwater Fishing Fund for fiscal year 2004-2005 up to the sum of five million dollars (\$5,000,000). Notwithstanding G.S. 113-175.3, as enacted by Section 1 of this act, the Board of Trustees of the North Carolina Saltwater Fishing Fund shall use these funds to implement the provisions of this act. Notwithstanding G.S. 113-175.3, as enacted by Section 1 of this act, the Board of Trustees shall repay funds appropriated pursuant to this section to the General Fund by July 1, 2010.

SECTION 14. 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 15. Sections 2, 3, and 4 of this act become effective January 1, 2006. All other sections of this act become effective when the act becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 11:20 a.m. on the 17th day of August, 2004.

S.B. 933**Session Law 2004-188**

AN ACT TO REQUIRE STATE AND LOCAL GOVERNMENT AGENCIES THAT ACQUIRE LAND FOR WETLANDS MITIGATION TO REIMBURSE THE COUNTY IN WHICH THE LAND IS LOCATED FOR ITS LOST TAXES DUE TO THE ACQUISITION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-15.1. Agreement to make payment in lieu of future ad valorem taxes required before wetlands acquisition by a unit of local government.

(a) Condemnation. – Notwithstanding the provisions of G.S. 153A-15, Chapter 40A of the General Statutes, or any other general law or local act conferring the power of eminent domain, before a final judgment may be entered or a final condemnation resolution adopted in an action of condemnation initiated by a unit of local government whose property is exempt from tax under Section 2(3) of Article V of the North Carolina Constitution, whereby the condemnor seeks to acquire land for the purpose of wetlands mitigation, the condemnor shall agree in writing to pay to the county where the land is located a sum equal to the estimated amount of ad valorem taxes that would have accrued to the county for the next 20 years had the land not been acquired by the condemnor.

(b) Purchase. – Notwithstanding the provisions of G.S. 130A-55, 153A-15, 153A-158, 160A-240.1, or any other general law or local act conferring the power to acquire real property, before any unit of local government whose property is exempt from tax under Section 2(3) of Article V of the North Carolina Constitution purchases any land for the purpose of wetlands mitigation, the unit shall agree in writing to pay to the county where the land is located a sum equal to the estimated amount of ad valorem taxes that would have accrued to the county for the next 20 years had the land not been acquired by the acquiring unit.

(c) Definition. – For purposes of this section, the "estimated amount of ad valorem taxes that would have accrued for the next 20 years" means the total assessed value of the acquired land excluded from the county's tax base multiplied by the tax rate set by the county board of commissioners in its most recent budget ordinance adopted under Chapter 159 of the General Statutes, and then multiplied by 20.

(d) Exception. – This section does not apply to any condemnation or acquisition of land by a city or special district if the land to be condemned or acquired is within the

corporate limits of that city or special district or within the county where the city or special district is located.

(e) Application. – This section applies only to land acquired in counties designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

SECTION 2. G.S. 143-214.11 is amended by adding a new subsection to read:

"(g) Payment for Taxes. – A State agency acquiring land to restore, enhance, preserve, or create wetlands must also pay a sum in lieu of ad valorem taxes lost by the county in accordance with G.S. 146-22.3."

SECTION 3. G.S. 143-214.12(a) reads as rewritten:

"(a) Wetlands Restoration Fund. – The Wetlands Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Wetlands Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for payments made in lieu of compensatory mitigation as described in subsection (b) of this section. No funds shall be expended from this Fund for any purpose other than those directly contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas in accordance with the basinwide plan as described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem taxes required under G.S. 146-22.3 when the Department is the State agency making the acquisition."

SECTION 4. Article 6 of Chapter 146 of the General Statutes is amended by adding a new section to read:

"§ 146-22.3. Acquisition of land to be used to restore, enhance, preserve, or create wetlands.

(a) Payment. – A State agency that acquires land by purchase for the purpose of restoring, enhancing, preserving, or creating wetlands as required by a permit or an authorization issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 must pay to the county in which the land is located, as reimbursement, a sum equal to the estimated amount of ad valorem taxes that would have accrued to the county for the next 20 years had the land not been acquired by the State agency.

(b) Exception. – This section does not apply when the land purchased by the State agency and the wetlands permitted to be lost are located in the same county. In other circumstances, the governing body of the county and the State agency may enter into a written agreement to waive payment.

(c) Amount. – The estimated amount of ad valorem taxes that would have accrued for the next 20 years is the total assessed value of the acquired land excluded from the county's tax base multiplied by the tax rate set by the county board of commissioners in its most recent budget ordinance adopted under Chapter 159 of the General Statutes, and then multiplied by 20.

(d) Application. – This section applies only to land acquired in counties designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

SECTION 5. Article 6 of Chapter 146 of the General Statutes is amended by adding a new section to read:

"§ 146-22.4. Acquisition of wetlands from private mitigation banking companies.

(a) Payment for Taxes. – A State agency that acquires wetlands from a private mitigation banking company must pay a sum in lieu of ad valorem taxes to the county

where the wetlands are located. The sum is equal to the estimated amount of ad valorem taxes that would have accrued for the next 20 years as computed in G.S. 146-22.3(c).

(b) Requirement for Acquisition. – A State agency may require, as a condition of accepting a donation of wetlands by a private mitigation banking company, that the company make adequate provisions for the long-term maintenance and management of the wetlands. These provisions may include reimbursement to the agency for payment of a sum in lieu of ad valorem taxes.

(c) Application. – This section applies only to land acquired in counties designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

SECTION 6. Article 6 of Chapter 146 of the General Statutes is amended by adding a new section to read:

"§ 146-22.5. Reimbursement of payment in lieu of future ad valorem taxes.

(a) If a State agency acquires land under G.S. 146-22.3 or G.S. 146-22.4 and later uses this land to mitigate wetlands permitted to be lost in the same county, then the county shall reimburse the State agency for a percentage of the estimated amount of ad valorem taxes paid for the land in accordance with G.S. 146-22.3 minus ten percent (10%) of this amount times the number of years the State agency held the land before the wetlands were lost.

(b) Application. – This section applies only to land acquired in counties designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

SECTION 7. This act is effective when it becomes law and applies to transfers made on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2004.

Became law upon approval of the Governor at 11:29 a.m. on the 17th day of August, 2004.

S.B. 852

Session Law 2004-189

AN ACT TO PROVIDE INTERNET ACCESS BY ORGAN PROCUREMENT ORGANIZATIONS AND EYE BANKS TO INFORMATION IN DIVISION OF MOTOR VEHICLE RECORDS PERTAINING TO ORGAN DONATION; TO ESTABLISH THE "LICENSE TO GIVE TRUST FUND" TO FUND INITIATIVES THAT EDUCATE AND PROMOTE ORGAN AND TISSUE DONATION; AND TO INCREASE THE FEE FOR ISSUANCE, RENEWAL, AND DUPLICATION OF A DRIVERS LICENSE OR SPECIAL IDENTIFICATION CARD AND PROVIDE THAT THE PROCEEDS OF THE INCREASE SHALL BE USED TO IMPLEMENT THIS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation, Division of Motor Vehicles, shall establish and maintain a statewide, online Organ Donor Internet site. The purpose of the Organ Donor Internet site is to enable federally designated organ procurement organizations and eye banks to have timely access to the names of individuals who have stated to the Division the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card. The data available on the Organ Donor Internet site shall be limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. The Division of Motor Vehicles shall ensure that

only federally designated organ procurement organizations and eye banks operating in this State have access to the Organ Donor Internet site in read-only format. The Division of Motor Vehicles shall enable federally designated organ procurement organizations and eye banks operating in this State to have online access in read-only format to the Organ Donor Internet site through a unique identifier and password issued to the organ procurement organization or eye bank by the Division of Motor Vehicles. The read-only information from the Organ Donor Internet site will be used for the sole purpose of seeking consent from the individual's next of kin for organ, tissue, or eye donation. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this section are not liable in damages for access to or disclosure of the information. When accessing and using information obtained from the Organ Donor Internet site, federally designated organ procurement organizations and eye banks shall comply with the requirements of Part 3 of Article 16 of Chapter 130A of the General Statutes.

SECTION 2. G.S. 20-43.1 reads as rewritten:

"§ 20-43.1. Disclosure of personal information in motor vehicle records.

(a) The Division shall disclose personal information contained in motor vehicle records in accordance with the federal Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq.

(b) As authorized in 18 U.S.C. § 2721, the Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(11).

(c) The Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(12) unless the Division receives prior written permission from the person about whom the information is requested.

(d) As authorized in 18 U.S.C. § 2721, the Division may disclose personal information to federally designated organ procurement organizations and eye banks operating in this State for the purpose of identifying individuals who have indicated an intent to be an organ donor. Personal information authorized under this subsection is limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this subsection are not liable in damages for access to or disclosure of the information."

SECTION 3. G.S. 20-7.3 reads as rewritten:

"§ 20-7.3. Availability of organ, eye, and tissue donor cards at motor vehicle offices.

The Division shall make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. The Division shall obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks, as defined in G.S. 130A-403. The Division shall offer organ donation information and a donor card to each applicant for a drivers license. The organ donation information shall include the following:

- (1) A statement informing the individual that federally designated organ procurement organizations and eye banks have read-only access to the Department-operated Organ Donor Internet site listing those individuals who have stated to the Division of Motor Vehicles the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card.
- (2) The type of information that will be made available on the Organ Donor Internet site."

SECTION 4.(a) Article 2 of Chapter 20 of the General Statutes is amended by adding the following new section to read:

"§ 20-7.4. License to Give Trust Fund established.

(a) There is established the License to Give Trust Fund. Revenue in the Fund includes amounts credited by the Division as required by law, and other funds. Any surplus in the Fund shall not revert but shall be used for the purposes stated in this section. The Fund shall be kept on deposit with the State Treasurer, as in the case of other State Funds, and may be invested by the State Treasurer in any lawful securities for investment of State funds. The License to Give Trust Fund is subject to oversight by the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(b) The purposes for which funds may be expended by the License to Give Trust Fund Commission from the License to Give Trust Fund are as follows:

- (1) As grants-in-aid for initiatives that educate about and promote organ and tissue donation and health care decision making at life's end.
- (2) Expenses of the License to Give Trust Fund Commission as authorized in G.S. 20-7.5."

SECTION 4.(b) Article 2 of Chapter 20 of the General Statutes is amended by adding the following new sections to read:

"§ 20-7.5. License to Give Trust Fund Commission established.

(a) There is established the License to Give Trust Fund Commission. The Commission shall be located in the Department of Administration for budgetary and administrative purposes only. The Commission may allocate funds from the License to Give Trust Fund for the purposes authorized in G.S. 20-7.4. The Commission shall have 15 members, appointed as follows:

- (1) Four members by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate:
 - a. One representative of Carolina Donor Services.
 - b. One representative of LifeShare of The Carolinas.
 - c. Two members who have demonstrated an interest in organ and tissue donation and education.
- (2) Four members by the General Assembly, upon the recommendation of the Speaker of the House of Representatives:
 - a. One representative of The North Carolina Eye Bank, Inc.
 - b. One representative of The Carolinas Center for Hospice and End-of-Life Care.
 - c. Two members who have demonstrated an interest in promoting advance care planning education.
- (3) Seven members by the Governor:
 - a. Three members representing organ, tissue, and eye recipients, families of recipients, or families of donors. Of these three, one each from the mountain, heartland, and coastal regions of the State.
 - b. One member who is a transplant physician licensed to practice medicine in this State.
 - c. One member who has demonstrated an interest in organ and tissue donation and education.
 - d. One member who has demonstrated an interest in promoting advance care planning education.

e. A representative of the North Carolina Department of Transportation.

(b) The Commission shall elect from its membership a chair and a vice-chair for two-year terms. The Secretary of Administration shall provide meeting facilities for the Commission as required by the Chair.

(c) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as applicable. Per diem, subsistence, and travel expenses of the members shall be paid from the License to Give Trust Fund.

(d) The members of the Commission shall comply with G.S. 14-234 prohibiting conflicts of interest. In addition to the restrictions imposed under G.S. 14-234, a member shall not vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on allocations of moneys from the License to Give Trust Fund to a nonprofit entity of which the member is an officer, director, or employee, or to a governmental entity of which the member is an employee or a member of the governing board. A violation of this subsection is a Class 1 misdemeanor.

"§ 20-7.6. Powers and duties of the License to Give Trust Fund Commission.

The License to Give Trust Fund Commission has the following powers and duties:

- (1) Establish general policies and guidelines for awarding grants-in-aid to nonprofit entities to conduct education and awareness activities on organ and tissue donation and advance care planning.
- (2) Accept gifts or grants from other sources to further the purposes of the License to Give Trust Fund. Such gifts or grants shall be transmitted to the State Treasurer for credit to the Fund.
- (3) Hire staff or contract for other expertise for the administration of the Fund. Expenses related to staffing shall be paid from the License to Give Trust Fund."

SECTION 5.(a) 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	<u>\$4.254.30</u>
Class B	<u>4.254.30</u>
Class C	<u>3.003.05</u>

The fee for a motorcycle endorsement is one dollar and seventy-five cents (\$1.75) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement."

SECTION 5.(b) G.S. 20-14 reads as rewritten:

"§ 20-14. Duplicate licenses.

A person may obtain a duplicate of a license issued by the Division by paying a fee of ten dollars and five cents ~~(\$10.00)~~ (\$10.05) and giving the Division satisfactory proof that any of the following has occurred:

- (1) The person's license has been lost or destroyed.
- (2) It is necessary to change the name or address on the license.

- (3) Because of age, the person is entitled to a license with a different color photographic background or a different color border.
- (4) The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired."

SECTION 5.(c) The Division of Motor Vehicles shall retain a portion of the proceeds of the increase in drivers license and duplicate license fees enacted in this Section to offset the actual cost of developing and maintaining the online Organ Donor Internet site established pursuant to Section 1 of this act. Proceeds remaining after deduction of amounts for development and maintenance costs shall be credited to the License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the purposes authorized under G.S. 20-7.4 and G.S. 20-7.5.

SECTION 6. Sections 4(a) and 5 of this act become effective November 1, 2004. The remainder of this act becomes effective January 1, 2005.

In the General Assembly read three times and ratified this the 13th day of July, 2004.

Became law upon approval of the Governor at 11:46 a.m. on the 17th day of August, 2004.

S.B. 230

Session Law 2004-190

AN ACT TO REPEAL ARTICLE 6 OF THE UNIFORM COMMERCIAL CODE RELATING TO BULK TRANSFERS AND TO ENACT CONFORMING AMENDMENTS TO THE UNIFORM COMMERCIAL CODE AND OTHER SECTIONS OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 25 of the General Statutes is repealed.

SECTION 2. G.S. 25-1-105(2), reads as rewritten:

"(2) Where one of the following provisions of this Chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. (G.S. 25-2-402).

Applicability of the article on bank deposits and collections. (G.S. 25-4-102).

Governing law in the article on Funds Transfers. (G.S. 25-4A-507).

Letters of Credit. (G.S. 25-5-116).

~~Bulk transfers subject to the article on bulk transfers. (G.S. 25-6-102).~~

Applicability of the article on investment securities. (G.S. 25-8-110).

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. (G.S. 25-9-301 through G.S. 25-9-307)."

SECTION 3. G.S. 25-2-403(4) reads as rewritten:

"(4) The rights of other purchasers of goods and of lien creditors are governed by the articles on secured transactions (~~article 9~~), ~~bulk transfers (article 6)~~ (~~article 9~~) and documents of title (article 7)."

SECTION 4. G.S. 66-186 reads as rewritten:

"§ 66-186. Uniform commercial practice.

(a) This Article does not affect a security interest of the supplier in the inventory of the dealer.

(b) ~~A repurchase of inventory under this Article shall not be subject to the bulk sales provisions of Article 6 of Chapter 25 of the General Statutes.~~"

SECTION 5. G.S. 85B-2(a)(11) reads as rewritten:

"(11) Sales of collateral, sales conducted to enforce carriers' or warehousemen's liens, ~~bulk sales,~~ sales of goods by a presenting bank following dishonor of a documentary draft, resales of rightfully rejected goods, resales of goods by an aggrieved seller, or other resales conducted pursuant to authority in Articles 2, 4, ~~6, 7-7,~~ and 9 of Chapter 25 of the General Statutes (the Uniform Commercial Code)."

SECTION 6. This act becomes effective January 1, 2005. Rights and obligations arising under Article 6 of Chapter 25 of the General Statutes and former G.S. 25-9-111 before the effective date of this act remain valid and may be enforced as though those statutes had not been repealed.

In the General Assembly read three times and ratified this the 9th day of July, 2004.

Became law upon approval of the Governor at 12:07 p.m. on the 17th day of August, 2004.

S.B. 1218

Session Law 2004-191

AN ACT TO MODIFY THE CHILD RESTRAINT SYSTEM REQUIREMENTS AS RECOMMENDED BY THE CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-137.1(a1) reads as rewritten:

"(a1) A child less than ~~five-eight~~ years of age and less than ~~40~~80 pounds in weight shall be properly secured in a weight-appropriate child passenger restraint system. In vehicles equipped with an active passenger-side front air bag, if the vehicle has a rear seat, a child less than five years of age and less than 40 pounds in weight shall be properly secured in a rear seat, unless the child restraint system is designed for use with air bags. If no seating position equipped with a lap and shoulder belt to properly secure the weight-appropriate child passenger restraint system is available, a child less than eight years of age and between 40 and 80 pounds may be restrained by a properly fitted lap belt only."

SECTION 2. G.S. 20-137.1(c) reads as rewritten:

"(c) Any driver found responsible for a violation of this section may be punished by a penalty not to exceed twenty-five dollars (\$25.00), even when more than one child less than 16 years of age was not properly secured in a restraint system. No driver charged under this section for failure to have a child under ~~five-eight~~ years of age properly secured in a restraint system shall be convicted if he produces at the time of his trial proof satisfactory to the court that he has subsequently acquired an approved child passenger restraint ~~system~~system for a vehicle in which the child is normally transported."

SECTION 3. This act becomes effective January 1, 2005.

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law upon approval of the Governor at 12:23 p.m. on the 17th day of August, 2004.

H.B. 859

Session Law 2004-192

AN ACT TO CHANGE THE LAW CONCERNING THE ELECTION OF MEMBERS OF THE BOARD OF FUNERAL SERVICE AND TO ESTABLISH A NEW PROCESS WHEREBY MEMBERS ARE APPOINTED TO SERVE ON THE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-210.18 is repealed.

SECTION 2. Article 13A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-210.18A. Board of Funeral Service created; qualifications; vacancies; removal.

(a) The General Assembly declares that the practice of funeral service affects the public health, safety, and welfare and is subject to regulation and control in the public interest. The public interest requires that only qualified persons be permitted to practice funeral service in North Carolina and that the profession merit the confidence of the public. This Article shall be liberally construed to accomplish these ends.

(b) The North Carolina Board of Funeral Service is created and shall regulate the practice of funeral service in this State. The Board shall have nine members as follows:

- (1) Four members appointed by the Governor from nominees recommended by the North Carolina Funeral Directors Association, Inc. These members shall be persons licensed under this Article.
- (2) Two members appointed by the Governor from nominees recommended by the Funeral Directors & Morticians Association of North Carolina, Inc. These members shall be persons licensed under this Article.
- (3) One member appointed by the Governor who is licensed under this Article and who is not affiliated with any funeral service trade association.
- (4) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate. This member shall be a person who is not licensed under this Article or employed by a person who is licensed under this Article.
- (5) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives. This member shall be a person who is not licensed under this Article or employed by a person who is licensed under this Article.

Members of the Board shall serve staggered three-year terms, ending on June 30 of the last year of the term or when a successor has been duly appointed, whichever is later. No member may serve more than two complete consecutive terms.

(c) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms of Board members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings

as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved."

SECTION 3. To establish staggered terms of the members of the Board of Funeral Service pursuant to G.S. 90-210.18A(b), two members appointed by the Governor from nominees recommended by the North Carolina Funeral Directors Association, Inc., shall serve two-year terms, and two members appointed by the Governor from nominees recommended by that Association shall serve three-year terms. One member appointed by the Governor from nominees recommended by the Funeral Directors & Morticians Association of North Carolina, Inc., shall serve a two-year term, and one member appointed by the Governor from nominees recommended by that Association shall serve a three-year term. The Governor shall appoint the member appointed by the Governor under G.S. 90-210.18A(b)(3) for a one-year term. The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint one member for a one-year term, and the General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint one member for a one-year term. After the staggered terms have been established, members appointed to the Board thereafter shall serve three-year terms.

SECTION 4. This act becomes effective January 1, 2005.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 12:26 p.m. on the 17th day of August, 2004.

H.B. 1046

Session Law 2004-193

AN ACT TO CREATE THE OFFENSE OF AGGRESSIVE DRIVING.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-141.6. Aggressive Driving.

(a) Any person who operates a motor vehicle on a street, highway, or public vehicular area is guilty of aggressive driving if the person:

- (1) Violates either G.S. 20-141 or G.S. 20-141.1, and
- (2) Drives carelessly and heedlessly in willful or wanton disregard of the rights or safety of others.

(b) For the purposes of this section only, in order to prove a violation of subsection (a)(2), the State must show that the person committed two or more of the below specified offenses while in violation of subsection (a)(1):

- (1) Running through a red light in violation of G.S. 20-158(b)(2) or (b)(3), or G.S. 20-158(c)(2) or (c)(3).
- (2) Running through a stop sign in violation of G.S. 20-158(b)(1) or (c)(1).
- (3) Illegal passing in violation of G.S. 20-149 or G.S. 20-150.
- (4) Failing to yield right-of-way in violation of G.S. 20-155, 20-156, 20-158(b)(4) or (c)(4), or 20-158.1.
- (5) Following too closely in violation of G.S. 20-152.

(c) A person convicted of aggressive driving is guilty of a Class 1 misdemeanor.

(d) The offense of reckless driving under G.S. 20-140 is a lesser-included offense of the offense set forth in this section."

SECTION 2. G.S. 20-16(a)(9) reads as rewritten:

"(a) The Division shall have authority to suspend the license of any operator with or without a preliminary hearing upon a showing by its records or other satisfactory evidence that the licensee:

- ...
- (9) Has, within a period of 12 months, been convicted of (i) two or more charges of speeding in excess of 55 and not more than 80 miles per hour, or of (ii) one or more charges of reckless driving and one or more charges of speeding in excess of 55 and not more than 80 miles per hour, or (iii) one or more charges of aggressive driving and one or more charges of speeding in excess of 55 and not more than 80 miles per hour;

..."

SECTION 3. G.S. 20-16(c) reads as rewritten:

(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus	5
<u>Aggressive driving</u>	<u>5</u>
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on wrong side of road	4
Illegal passing	4
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3
No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3
Failure to report accident where such report is required	3
Speeding in a school zone in excess of the posted school zone speed limit	3
Failure to properly restrain a child in a restraint or seat belt	2
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle

Passing stopped school bus	8
Rail-highway crossing violation	6
Careless and reckless driving in violation of G.S. 20-140(f)	6
Speeding in violation of G.S. 20-141(j3)	6
<u>Aggressive driving</u>	6
Reckless driving	5
Hit and run, property damage only	5
Following too close	5
Driving on wrong side of road	5
Illegal passing	5
Running through stop sign	4
Speeding in excess of 55 miles per hour	4
Failing to yield right-of-way	4
Running through red light	4
No driver's license or license expired more than one year	4
Failure to stop for siren	4
Driving through safety zone	4
No liability insurance	4
Failure to report accident where such report is required	4
Speeding in a school zone in excess of the posted school zone speed limit	4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle	4
All other moving violations	3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

- Overloads
- Over length
- Over width
- Over height
- Illegal parking
- Carrying concealed weapon
- Improper plates
- Improper registration
- Improper muffler
- Improper display of license plates or dealers' tags
- Unlawful display of emblems and insignia

Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation."

SECTION 4. G.S. 20-17(a)(6) reads as rewritten:

"(a) The Division shall forthwith revoke the license of any driver upon receiving a record of the driver's conviction for any of the following offenses:

- ...
- (6) ~~Conviction upon~~ Conviction, within a period of 12 months, of (i) two charges of reckless driving committed within a period of 12 months driving, (ii) two charges of aggressive driving, or (iii) one or more charges of reckless driving and one or more charges of aggressive driving.
- ..."

SECTION 5. G.S. 20-17(a)(7) reads as rewritten:

"(a) The Division shall forthwith revoke the license of any driver upon receiving a record of the driver's conviction for any of the following offenses:

- ...
- (7) Conviction upon one charge of aggressive driving or reckless driving while engaged in the illegal transportation of intoxicants for the purpose of sale.

..."

SECTION 6. This act becomes effective December 1, 2004, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 12:27 p.m. on the 17th day of August, 2004.

H.B. 951

Session Law 2004-194

AN ACT TO ESTABLISH CIVIL NO-CONTACT ORDERS FOR THE PROTECTION OF INDIVIDUALS WHO ARE VICTIMS OF UNLAWFUL CONDUCT.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 50C.

"Civil No-Contact Orders.

"§ 50C-1. Definitions.

The following definitions apply in this Chapter:

- (1) Abuse. – To physically or mentally harm, harass, intimidate, or interfere with the personal liberty of another.
- (2) Civil no-contact order. – An order granted under this Chapter, which includes a remedy authorized by G.S. 50C-5.
- (3) Nonconsensual. – A lack of freely given consent.
- (4) Sexual conduct. – Any intentional or knowing touching, fondling, or sexual penetration by a person, either directly or through clothing, of the sexual organs, anus, or breast of another, whether an adult or a minor, for the purpose of sexual gratification or arousal. For purposes of this subdivision, the term shall include the transfer or transmission of semen.
- (5) Sexual penetration. – The penetration, however slight, by any object into the genital or anal opening of another person's body. Evidence of emission of semen is not required to prove sexual penetration.
- (6) Stalking. – Following on more than one occasion or otherwise harassing, as defined in G.S. 14-277.3(c), another person without legal purpose with the intent to do any of the following:
 - a. Place the person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates.
 - b. Cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment and that in fact causes that person substantial emotional distress.
- (7) Unlawful conduct. – The commission of one or more of the following acts upon a person, but does not include acts of self-defense or defense of others:

- a. Nonconsensual sexual conduct, including single incidences of nonconsensual sexual conduct.
 - b. Stalking.
- (8) Victim. – A person against whom an act of unlawful conduct has been committed by another person not involved in a personal relationship with the person as defined in G.S. 50B-1(b).

"§ 50C-2. Commencement of action; filing fees not permitted; assistance.

(a) An action is commenced under this Chapter by filing a verified complaint for a civil no-contact order in district court or by filing a motion in any existing civil action, by any of the following:

- (1) A person who is a victim of unlawful conduct that occurs in this State.
- (2) A competent adult who resides in this State on behalf of a minor child or an incompetent adult who is a victim of unlawful conduct that occurs in this State.

(b) No court costs shall be assessed for the filing or service of the complaint, or the service of any orders.

(c) An action commenced under this Chapter may be filed in any county permitted under G.S. 1-82 or where the unlawful conduct took place.

(d) If the victim states that disclosure of the victim's address would place the victim or any member of the victim's family or household at risk for further unlawful conduct, the victim's address may be omitted from all documents filed with the court. If the victim has not disclosed an address under this subsection, the victim shall designate an alternative address to receive notice of any motions or pleadings from the opposing party.

"§ 50C-3. Process for action for no-contact order.

(a) Any action for a civil no-contact order requires that a separate summons be issued and served. The summons issued pursuant to this Chapter shall require the respondent to answer within 10 days of the date of service. Attachments to the summons shall include the complaint for the civil no-contact order, and any temporary civil no-contact order that has been issued and the notice of hearing on the temporary civil no-contact order.

(b) Service of the summons and attachments shall be by the sheriff by personal delivery in accordance with Rule 4 of the Rules of Civil Procedure, and if the respondent cannot with due diligence be served by the sheriff by personal delivery, the respondent may be served by publication by the complainant in accordance with Rule 4(j1) of the Rules of Civil Procedure.

(c) The court may enter a civil no-contact order by default for the remedy sought in the complaint if the respondent has been served in accordance with this section and fails to answer as directed, or fails to appear on any subsequent appearance or hearing date agreed to by the parties or set by the court.

"§ 50C-4. Hearsay exception.

In proceedings for an order or prosecutions for violation of an order under this Chapter, the prior sexual activity or the reputation of the victim is inadmissible except when it would be admissible in a criminal prosecution under G.S. 8C, Rule 412.

"§ 50C-5. Civil no-contact order; remedy.

(a) Upon a finding that the victim has suffered unlawful conduct committed by the respondent, the court may issue temporary or permanent civil no-contact orders as authorized in this Chapter. In determining whether or not to issue a civil no-contact order, the court shall not require physical injury to the victim.

(b) The court may grant one or more of the following forms of relief in its orders under this Chapter:

- (1) Order the respondent not to visit, assault, molest, or otherwise interfere with the victim.
- (2) Order the respondent to cease stalking the victim, including at the victim's workplace.
- (3) Order the respondent to cease harassment of the victim.
- (4) Order the respondent not to abuse or injure the victim.
- (5) Order the respondent not to contact the victim by telephone, written communication, or electronic means.
- (6) Order the respondent to refrain from entering or remaining present at the victim's residence, school, place of employment, or other specified places at times when the victim is present.
- (7) Order other relief deemed necessary and appropriate by the court.

(c) A civil no-contact order shall include the following notice, printed in conspicuous type: 'A knowing violation of a civil no-contact order shall be punishable as contempt of court which may result in a fine or imprisonment.'

"§ 50C-6. Temporary civil no-contact order; court holidays and evenings.

(a) A temporary civil no-contact order may be granted ex parte, without evidence of service of process or notice, only if both of the following are shown:

- (1) It clearly appears from specific facts shown by a verified complaint or affidavit that immediate injury, loss, or damage will result to the victim before the respondent can be heard in opposition.
- (2) Either one of the following:
 - a. The complainant certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required.
 - b. The complainant certified to the court that there is good cause to grant the remedy because the harm that the remedy is intended to prevent would likely occur if the respondent were given any prior notice of the complainant's efforts to obtain judicial relief.

(b) Every temporary civil no-contact order granted without notice shall:

- (1) Be endorsed with the date and hour of issuance.
- (2) Be filed immediately in the clerk's office and entered of record.
- (3) Define the injury, state why it is irreparable and why the order was granted without notice.
- (4) Expire by its terms within such time after entry, not to exceed 10 days.
- (5) Give notice of the date of hearing on the temporary order as provided in G.S. 50C-8(a).

(c) If the respondent appears in court for a hearing on a temporary order, the respondent may elect to file a general appearance and testify. Any resulting order may be a temporary order, governed by this section. Notwithstanding the requirements of this section, if all requirements of G.S. 50C-7 have been met, the court may issue a permanent order.

(d) When the court is not in session, the complainant may file for a temporary order before any judge or magistrate designated to grant relief under this Chapter. If the judge or magistrate finds that there is an immediate and present danger of harm to the victim and that the requirements of subsection (a) of this section have been met, the

judge or magistrate may issue a temporary civil no-contact order. The chief district court judge may designate for each county at least one judge or magistrate to be reasonably available to issue temporary civil no-contact orders when the court is not in session.

"§ 50C-7. Permanent civil no-contact order.

Upon a finding that the victim has suffered unlawful conduct committed by the respondent, a permanent civil no-contact order may issue if the court additionally finds that process was properly served on the respondent, the respondent has answered the complaint and notice of hearing was given, or the respondent is in default. No permanent civil no-contact order shall be issued without notice to the respondent.

"§ 50C-8. Duration; extension of orders.

(a) A temporary civil no-contact order shall be effective for not more than 10 days as the court fixes, unless within the time so fixed the temporary civil no-contact order, for good cause shown, is extended for a like period or a longer period if the respondent consents. The reasons for the extension shall be stated in the temporary order. In case a temporary civil no-contact order is granted without notice and a motion for a permanent civil no-contact order is made, it shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. When the motion for a permanent civil no-contact order comes on for hearing, the complainant may proceed with a motion for a permanent civil no-contact order, and, if the complainant fails to do so, the judge shall dissolve the temporary civil no-contact order. On two days' notice to the complainant or on such shorter notice to that party as the judge may prescribe, the respondent may appear and move its dissolution or modification. In that event the judge shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(b) A permanent civil no-contact order shall be effective for a fixed period of time not to exceed one year.

(c) Any order may be extended one or more times, as required, provided that the requirements of G.S. 50C-6 or G.S. 50C-7, as appropriate, are satisfied. The court may renew an order, including an order that previously has been renewed, upon a motion by the complainant filed before the expiration of the current order. The court may renew the order for good cause. The commission of an act of unlawful conduct by the respondent after entry of the current order is not required for an order to be renewed. If the motion for extension is uncontested and the complainant seeks no modification of the order, the order may be extended if the complainant's motion or affidavit states that there has been no material change in relevant circumstances since entry of the order and states the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of G.S. 50D-6(c).

(d) Any civil no-contact order expiring on a day the court is not open for business shall expire at the close of the next court business day.

"§ 50C-9. Notice of orders.

(a) The clerk of court shall deliver on the same day that a civil no-contact order is issued, a certified copy of that order to the sheriff.

(b) Unless the respondent was present in court when the order was issued, the sheriff shall serve the order on the respondent and file proof of service in the manner provided for service of process in civil proceedings. If the summons has not yet been served upon the respondent, it shall be served with the order.

(c) A copy of the order shall be issued promptly to and retained by the police department of the municipality of the victim's residence. If the victim's residence is not

located in a municipality or in a municipality 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's residence is located.

(d) Any order extending, modifying, or revoking any civil no-contact order shall be promptly delivered to the sheriff by the clerk and served by the sheriff in accordance with the provisions of this section.

"§ 50C-10. Violation.

A knowing violation of an order entered pursuant to this Chapter is punishable as contempt of court.

"§ 50C-11. Remedies not exclusive.

The remedies provided by this Chapter are not exclusive but are additional to other remedies provided under law."

SECTION 2. This act becomes effective December 1, 2004, and applies to actions that give rise to civil no-contact orders issued under this act on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2004.

Became law upon approval of the Governor at 12:30 p.m. on the 17th day of August, 2004.

S.B. 823

Session Law 2004-195

AN ACT TO AMEND VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENVIRONMENTAL HEALTH, AND NATURAL RESOURCES TO: (1) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS; (2) MODIFY ENVIRONMENTAL REPORTING REQUIREMENTS; (3) ABOLISH OBSOLETE AND INACTIVE COUNCILS; (4) EXTEND BY ONE YEAR THE TIME FOR THE DEVELOPMENT OF PERMANENT RULES RELATED TO WATER CONSERVATION PURSUANT TO SECTION 3 OF S.L. 2002-167; (5) PROVIDE FOR STAGGERED TERMS FOR THE MEMBERS OF THE AGRICULTURAL FINANCE AUTHORITY, TO MAKE APPOINTMENTS TO THE AUTHORITY, AND SPECIFY THE MAXIMUM NUMBER OF SUCCESSIVE TERMS THAT MEMBERS OF THE AUTHORITY MAY SERVE; AND (6) PROHIBIT THE SALE OR DISPENSING OF RAW MILK, AND TO PROVIDE FOR FILLING VACANCIES IN LEGISLATIVE APPOINTMENTS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS

SECTION 1.1. G.S. 113-301.1 reads as rewritten:

"§ 113-301.1. Wildlife Resources Commission obligated to make efforts to notify members of the public who may be affected by operative provisions of statutes and ~~regulations~~ rules.

(a) The Wildlife Resources Commission must prepare and distribute to license agents informational materials relating to hunting, fishing, trapping, and boating laws and ~~regulations~~ rules administered by the Wildlife Resources Commission. The materials furnished an agent should be appropriate to the types of licenses ~~he~~ the agent customarily handles, and in a quantity reasonably anticipated to be sufficient to meet the needs of licensees obtaining licenses from the agent.

(b) In issuing new licenses and permits from the Raleigh office by mail, the Wildlife Resources Commission must generally inform the licensee or permittee of governing provisions of law and ~~regulations~~ rules applicable to the type of license or permit secured. In issuing renewal licenses and permits by mail, the Wildlife Resources Commission must inform the licensee or permittee of any substantial changes in the law or ~~regulations~~ which rules that may affect the activities of the licensee or permittee.

(c) After adopting ~~regulations~~ which rules that impose new restrictions upon the activities of members of the public who do not normally hold licenses or permits to engage in the activity in question, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions. These steps may include press releases to the media, informing local authorities, and other forms of communication that give promise of reaching the segment of the public affected.

(d) After adopting new restrictions on hunting, fishing, trapping, or boating at a time other than when usual annual changes in the ~~regulations~~ rules affecting those activities are adopted, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions in a manner designed to reach persons who may be affected.

(e) Repealed by Session Laws 1987, c. 827, s. 9."

SECTION 1.2. G.S. 113A-115.1(b) reads as rewritten:

"(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 control~~ structures in estuarine shorelines."

SECTION 1.3. G.S. 121-34 reads as rewritten:

"§ 121-34. Short title.

The title of this Article shall be known as the "~~Historic~~ Conservation and Historic Preservation and Conservation Agreements Act." "

SECTION 1.4. G.S. 121-42 reads as rewritten:

"§ 121-42. Citation of Article.

This Article shall be known and may be cited as "~~Uniform Conservation~~ the 'Conservation and Historic Preservation Agreement Agreements Act.'" "

SECTION 1.5. G.S. 143-215.1 reads as rewritten:

"§ 143-215.1. Control of sources of water pollution; permits required.

...
 (c2) Any person who is required to obtain an individual wastewater permit under this section for a facility discharging to the surface waters of the State that have been classified as nutrient sensitive waters (NSW) under rules adopted by the Commission where ~~phosphorous~~ phosphorus is designated by the Commission as a nutrient of concern shall not discharge more than an average annual mass load of total ~~phosphorous~~ phosphorus than would result from a discharge of the permitted flow, determined at the time the Commission makes a finding that those waters are experiencing or are subject to excessive growth of microscopic or macroscopic

vegetation, having a total ~~phosphorous~~phosphorus concentration of two milligrams of ~~phosphorous~~phosphorus per liter (2.0 mg/l). The total ~~phosphorous~~phosphorus concentration of 2.0 mg/l for nutrient sensitive waters required by this subsection applies only to:

- (1) Facilities that were placed into operation prior to 1 July 1997 or for which an authorization to construct was issued prior to 1 July 1997 and that have a design capacity to discharge 500,000 gallons per day or more.
- (2) Facilities for which an authorization to construct is issued on or after 1 July 1997.

(c3) A person to whom subsection (c1) or (c2) of this section applies may meet the limits established under those subsections either individually or on the basis of a cooperative agreement with other persons who hold individual wastewater permits if the cooperative agreement is approved by the Commission. A person to whom subsection (c1) or (c2) of this section applies whose agreement to accept wastewater from another wastewater treatment facility that discharges into the same water body and that results in the elimination of the discharge from that wastewater treatment facility shall be allowed to increase the average annual mass load of total nitrogen and total ~~phosphorous~~phosphorus that person discharges by the average annual mass load of total nitrogen and total ~~phosphorous~~phosphorus of the wastewater treatment facility that is eliminated. If the wastewater treatment facility that is eliminated has a permitted flow of less than 500,000 gallons per day, the average annual mass load of total nitrogen or ~~phosphorous~~phosphorus shall be calculated from the most recent available data. A person to whom this subsection applies shall comply with nitrogen and ~~phosphorous~~phosphorus discharge monitoring requirements established by the Commission. This average annual load of nitrogen or ~~phosphorous~~phosphorus shall be assigned to the wastewater discharge allocation of the wastewater treatment facility that accepts the wastewater.

(c4) A person to whom subsection (c1) of this section applies may request the Commission to approve a total nitrogen concentration greater than that set out in subsection (c1) of this section at a decreased permitted flow so long as the average annual mass load of total nitrogen is equal to or is less than that required under subsection (c1) of this section. A person to whom subsection (c2) of this section applies may request the Commission to approve a total ~~phosphorous~~phosphorus concentration greater than that set out in subsection (c2) of this section at a decreased permitted flow so long as the average annual mass load of total ~~phosphorous~~phosphorus is equal to or is less than that required under subsection (c2) of this section. If, after any 12-month period following approval of a greater concentration at a decreased permitted flow, the Commission finds that the greater concentration at a decreased permitted flow does not result in an average annual mass load of total nitrogen or total ~~phosphorous~~phosphorus equal to or less than those that would be achieved under subsections (c1) and (c2) of this section, the Commission shall rescind its approval of the greater concentration at a decreased permitted flow and the requirements of subsections (c1) and (c2) of this section shall apply.

(c5) For surface waters to which the limits set out in subsection (c1) or (c2) of this section apply and for which a calibrated nutrient response model that meets the requirements of this subsection has been approved by the Commission, mass load limits for total nitrogen or total ~~phosphorous~~phosphorus shall be based on the results of the nutrient response model. A calibrated nutrient response model shall be developed and

maintained with current data, be capable of predicting the impact of nitrogen or ~~phosphorous~~phosphorus in the surface waters, and incorporated into nutrient management plans by the Commission. The maximum mass load for total nitrogen or total ~~phosphorous~~phosphorus established by the Commission shall be substantiated by the model and may require individual discharges to be limited at concentrations that are different than those set out in subsection (c1) or (c2) of this section. A calibrated nutrient response model shall be developed by the Department in conjunction with the affected parties and is subject to approval by the Commission.

...."

SECTION 1.6. G.S. 143-215.1B reads as rewritten:

"§ **143-215.1B. Extension of date for compliance with nitrogen and ~~phosphorous~~phosphorus discharge limits.**

...

(d) A permit holder who is granted an extended compliance date under this section shall:

- (1) Develop a calibrated nutrient response model in conjunction with other affected parties and in accordance with a timetable for the development of the model that has been approved by the Commission. The model shall be based on current data, capable of predicting the impact of nitrogen and ~~phosphorous~~phosphorus in the surface waters, capable of being incorporated into any nutrient management plan developed by the Commission, and approved by the Commission.

...."

SECTION 1.7. G.S. 159G-3(18) reads as rewritten:

"(18) 'Wastewater treatment works' means the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, ~~phosphorous~~phosphorus removal equipment, pumping, power and other equipment and their appurtenances."

SECTION 1.8. G.S. 159G-10(b)(5) reads as rewritten:

"(5) Wastewater Treatment Works Improvements to Meet Nitrogen and ~~Phosphorous-Phosphorus~~ Limits. – The Environmental Management Commission shall adopt a rule specifying priority criteria for modifications to existing permitted wastewater treatment facilities that are owned or operated by local government units and that are subject to G.S. 143-215.1(c1) or G.S. 143-215.1(c2) to enable local government units to comply with G.S. 143-215.1(c1) and G.S. 143-215.1(c2)."

SECTION 1.9. If House Bill 1112, 2003 Regular Session, becomes law, then Section 8 of House Bill 1112 is rewritten to read:

"**SECTION 8.** Sections 1 through 6 of this act become effective 1 January 2005. Sections 7 and 8 of this act are effective when this act becomes law."

PART II. MODIFY REPORTING REQUIREMENTS

SECTION 2.1. Article 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ **113A-67. Annual report.**

The Department shall report to the Environmental Review Commission on the implementation of this Article on or before 1 October of each year. The Department shall include in the report an analysis of how the implementation of the Sedimentation

Pollution Control Act of 1973 is affecting activities that contribute to the sedimentation of streams, rivers, lakes, and other waters of the State. The report shall also include a review of the effectiveness of local erosion and sedimentation control programs."

SECTION 2.2. G.S. 113A-235(c) reads as rewritten:

"(c) Report. – The Department shall report on the implementation of this Article to the Environmental Review Commission no later than 1 ~~November~~ October of each year. The Department shall maintain an inventory of all conservation easements held by the Department. The inventory shall be included in the report required by this subsection."

SECTION 2.3. G.S. 113A-241(c) reads as rewritten:

"(c) The Secretary of Environment and Natural Resources shall report to the Governor and the Environmental Review Commission on or before 1 ~~September~~ October of each year on the State's progress towards attaining the goal established in this section."

SECTION 2.4. G.S. 143-215.107C(b) reads as rewritten:

"(b) It shall be the goal of the State that on and after 1 January 2004 at least seventy-five percent (75%) of the new or replacement light duty cars and trucks purchased by the State will be alternative-fueled vehicles or low emission vehicles. The Department of Administration, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. ~~The Department of Administration shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000.~~ For purposes of this section, a light duty car or truck is one that is rated at 8,500 pounds or less Gross Vehicle Weight Rating (GVWR)."

SECTION 2.5. G.S. 143-355.1 is amended by adding a new subsection to read:

"(g) The Council shall report on the implementation of this section to the Secretary, the Governor, and the Environmental Review Commission no later than 1 October of each year. The report shall include a review of drought advisories issued by the Council and any recommendations to improve coordination among local, State, and federal agencies; public water systems; and water users to improve the management and mitigation of the harmful effects of drought."

SECTION 2.6. The Department of Environment and Natural Resources shall submit the first report required by G.S. 113A-67, as enacted by Section 2.1 of this act, to the Environmental Review Commission on or before 1 October 2005. The Drought Management Advisory Council shall submit the first report required by G.S. 143-355.1, as enacted by Section 2.5 of this act, to the Secretary of Environment and Natural Resources, the Governor, and the Environmental Review Commission on or before 1 October 2005.

PART III. ABOLISH INACTIVE COUNCILS

SECTION 3.1. G.S. 143-214.6 (Watershed Protection Advisory Council), G.S. 143-215.22J (Scientific Advisory Council on Water Resources and Coastal Fisheries Management established; membership, compensation), and G.S. 143-215.22K (Scientific Advisory Council on Water Resources and Coastal Fisheries Management; functions and responsibilities) are repealed.

SECTION 3.2. G.S. 143-215.8C reads as rewritten:

"§ 143-215.8C. Neuse River Modeling and Monitoring Project reports.

The Primary Investigator or Researcher receiving funding pursuant to Subsection 14.14(a) of S.L. 1998-212 shall provide progress reports to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, ~~the Scientific Advisory Council on Water Resources and Coastal Fisheries Management,~~ and the Fiscal Research Division on 1 January and 1 July of each year until the project or study is complete. Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report to the entities listed above."

SECTION 3.3. G.S. 143-215.8D(a) reads as rewritten:

"(a) The Department of Environment and Natural Resources and North Carolina State University shall jointly establish the North Carolina Water Quality Workgroup. The Workgroup shall work collaboratively with the appropriate divisions of the Department of Environment and Natural Resources and North Carolina State University, ~~the Scientific Advisory Council on Water Resources and Coastal Fisheries Management,~~ the Environmental Management Commission, and the Environmental Review Commission to identify the scientific and State agency databases that can be used to formulate public policy regarding the State's water quality, evaluate those databases to determine the information gaps in those databases, and establish the priorities for obtaining the information lacking in those databases. The Workgroup shall have the following duties:

- (1) To address specifically the ongoing need of evaluation, synthesis, and presentation of current scientific knowledge that can be used to formulate public policy on water quality issues.
- (2) To identify knowledge gaps in the current understanding of water quality problems and fill these gaps with appropriate research projects.
- (3) To maintain a web-based water quality data distribution site.
- (4) To organize and evaluate existing scientific and State agency water quality databases.
- (5) To prioritize recognized knowledge gaps in water quality issues for immediate funding."

SECTION 3.4. G.S. 143-215.8D(e) reads as rewritten:

"(e) The Chair of the North Carolina Water Quality Workgroup shall report each year by January 30 to the ~~Scientific Advisory Council on Water Resources and Coastal Fisheries Management,~~ to the Environmental Review Commission, to the Cochairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and to the Chancellor of North Carolina State University or the Chancellor's designee on the previous year's activities, findings, and recommendations of the North Carolina Water Quality Workgroup."

PART IV. EXTEND THE TIME FOR DEVELOPMENT OF RULES RELATED TO WATER CONSERVATION

SECTION 4. Section 3(c) of S.L. 2002-167 reads as rewritten:

"**SECTION 3.(c)** Rules adopted pursuant to subsection (a) of this section shall not supercede or modify existing rules governing water used in the generation of electricity. This section shall not be construed to authorize the Commission to adopt temporary rules. The Commission shall adopt permanent rules so that the rules will become effective following legislative review pursuant to G.S. 150B-21.3(b) by the ~~2005-2006~~ Regular Session of the 2005 General Assembly."

PART V. STAGGER TERMS OF AGRICULTURAL FINANCE AUTHORITY

SECTION 5.1. G.S. 122D-4 reads as rewritten:

"§ 122D-4. North Carolina Agricultural Finance Authority.

(a) The North Carolina Agricultural Finance Authority, a body politic and corporate, is hereby created within the Department of Agriculture and Consumer Services. The Authority shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The Authority shall be composed of ~~10 members~~. members appointed to three-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 three.
- (2) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by three.
- (3) 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 three.
- (4) 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 three.
- (5) 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 three.
- (6) 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 three.
- (7) 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 three.
- (8) 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 three.
- (9) 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 three.
- (10) The Commissioner or the Commissioner's designee shall serve ex officio, with the same rights and privileges, including voting rights, as other members. ~~The other nine members shall be appointed in the following manner:~~
 - (1) ~~Three members appointed by the General Assembly upon the recommendation of the Speaker of the House under G.S. 120-121;~~
 - (2) ~~Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate under G.S. 120-121; and~~
 - (3) ~~Three members appointed by the Governor.~~

(c) ~~Members shall serve for three-year terms. Initial terms shall commence July 1, 1986. Appointed members shall serve until their successors are appointed and qualify. A member appointed under subdivisions (1) through (9) of subsection (b) of~~

this section may be reappointed to no more than two successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7.

(d) Vacancies in the offices of any appointed members of the Authority shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and to conduct official business of the Authority.

(e) The domicile of the Authority shall be the City of Raleigh.

(f) A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require an affirmative vote of a majority of the members present and voting at any meeting.

(g) Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may ~~be reimbursed for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.~~

(h) The Authority shall meet quarterly and may meet more frequently upon call.

(i) The Authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper."

SECTION 5.2. In order to alter the schedule of staggered terms of three years for the North Carolina Agricultural Finance Authority so that the same number of terms will expire each year and to provide for an orderly transition in membership of the Authority to the terms specified in G.S. 122D-4(b), as amended by Section 5.1 of this act, the following provisions shall apply:

- (1) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(1) through 1 July 2006.
- (2) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(2) through 1 July 2007.
- (3) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(3) through 1 July 2008.
- (4) George Graham of Lenoir County is appointed to serve in the position established by G.S. 122D-4(b)(4) through 1 July 2006.
- (5) James R. Britt of Duplin County is appointed to serve in the position established by G.S. 122D-4(b)(5) through 1 July 2007.
- (6) Deborah Mae Johnson of Sampson County is appointed to serve in the position established by G.S. 122D-4(b)(6) through 1 July 2008.
- (7) Ira S. Cline of Catawba County is appointed to serve in the position established by G.S. 122D-4(b)(7) through 1 July 2006.
- (8) Stan Crowe of Martin County is appointed to serve in the position established by G.S. 122D-4(b)(8) to serve through 1 July 2007.
- (9) David Hall of Rowan County is appointed to serve in the position established by G.S. 122D-4(b)(9) through 1 July 2008.

SECTION 5.3. The limitation on the number of successive three-year terms that a member of the North Carolina Agricultural Finance Authority may serve as provided in G.S. 122D-4(c), as amended by Section 5.1 of this act, shall not apply to any person who is a member of the Authority at the time this act becomes effective.

PART VI. PROHIBIT SALE OR DISPENSING OF RAW MILK

SECTION 6.1. G.S. 130A-274(2) reads as rewritten:

"(2) 'Milk' means the lacteal secretion practically free from colostrum obtained by the ~~complete~~-milking of one or more ~~eows or goats~~. cows, goats, or other lactating animals."

SECTION 6.2. G.S. 130A-279 reads as rewritten:

"§ 130A-279. Sale or dispensing of milk.

Only milk ~~which that~~ is Grade 'A' pasteurized milk may be sold or dispensed directly to consumers for human consumption. Raw milk and raw milk products shall be sold or dispensed only to a permitted milk hauler or to a processing facility at which the processing of milk is permitted, graded, or regulated by a local, State, or federal agency. The Commission may adopt rules to provide exceptions for dispensing raw milk and raw milk products for nonhuman consumption. 'Sale' or 'sold' shall mean any transaction that involves the transfer or dispensing of milk and milk products or the right to acquire milk and milk products through barter or contractual arrangement or in exchange for any other form of compensation including, but not limited to, the sale of shares or interest in a cow, goat, or other lactating animal or herd."

PART VII. VACANCIES IN LEGISLATIVE APPOINTMENTS/EXPIRATION OF TERM

SECTION 7. G.S. 120-122 reads as rewritten:

"§ 120-122. Vacancies in legislative appointments.

When a vacancy ~~occurs, other than by the expiration of term,~~ occurs in any office subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives, upon the recommendation of the President Pro Tempore of the Senate, or upon the recommendation of the President of the Senate, and the vacancy occurs either: (i) after election of the General Assembly but before convening of the regular session; (ii) when the General Assembly has adjourned to a date certain, which date is more than 20 days after the date of adjournment; ~~or (iii) after sine die adjournment of the regular session,~~ or (iv) when the term of office expires and a successor has not been appointed, then the Governor may appoint a person to serve until the expiration of the term or until the General Assembly fills the vacancy, whichever occurs first. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. When a person is holding over in office after the expiration of the term, for the purpose of this section that office may be filled as if it were vacant. Before making an appointment, the Governor shall consult the officer who recommended the original appointment to the General Assembly (the Speaker of the House of Representatives, the President Pro Tempore of the Senate, or the President of the Senate), and ask for a written recommendation. After receiving the written recommendation, the Governor must within 30 days either appoint the person recommended or inform the officer who made the recommendation that he is rejecting the recommendation. Failure to act within 30 days as required under the provisions of the preceding sentence shall be deemed to be approval of the candidate, and the candidate shall be eligible to enter the office in as full and ample extent as if the Governor had executed the appointment. The Governor shall not appoint a person other than the person so recommended. Any position subject to initial appointment by the General Assembly but not filled prior to sine die adjournment of the Session at which the position was created or adjournment to a date certain which date is more than 20 days after the date of adjournment of the session at which the position was created may be filled by the Governor under this section as if it were a vacancy occurring after the General Assembly had made an appointment."

PART VIII. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 12:31 p.m. on the 17th day of August, 2004.

S.B. 1008**Session Law 2004-196**

AN ACT TO CLARIFY AND STRENGTHEN THE REPORTING REQUIREMENTS OF NON-STATE ENTITIES RECEIVING STATE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-6.1 is repealed.

SECTION 2. Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-6.2. Use of State funds by non-State entities.

(a) Disbursement and Use of State Funds. – Every non-State entity 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. State funds include federal funds that flow through the State. For the purposes of this section, the term "non-State entity" means a firm, corporation, partnership, association, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution. For the purposes of this section, "unit of local government" has the meaning set out in G.S. 159-7(15) and "public authority" has the meaning set out in G.S. 159-7(10).

(b) For the purposes of this section, the term "grantee" means a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The term "subgrantee" means a non-State entity that receives a grant of State funds from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.

(c) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds.

(d) The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The rules shall establish policies and procedures for disbursements of grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. Such policies and procedures shall:

- (1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.
- (2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.
- (3) Ensure that funds are spent in accordance with the purposes for which they were granted.
- (4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of State grant funds.
- (5) Provide for adequate oversight and monitoring to prevent the misuse of State funds.
- (6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection.
- (7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all State grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.
- (8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (h) of this section.
- (9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by State grant funds and each subgrantee project, program, or activity supported by State grant funds.
- (10) Provide procedures for the suspension of further disbursements or use of State grant funds for noncompliance with these rules or other inappropriate use of the funds.
- (11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of State grant funds.
- (12) Provide procedures for the recovery and return to the grantor State agency of unexpended State grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

(e) Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

(f) The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by subsection (d) of this section.

(g) The Office of State Budget and Management, after consultation with the administering agency, shall have the power to suspend disbursement of State grant funds to grantees or subgrantees, to prevent further use of State grant funds already disbursed, and to recover State grant funds already disbursed for noncompliance with

rules adopted pursuant to subsection (d) of this section. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.

(h) Audit Oversight. – The State Auditor has audit oversight, with respect to State grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends State grant funds. A grantee or subgrantee 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 grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of State grant funds.

(i) Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section during the prior fiscal year, including the amount of State funds that were disbursed to each of those grantees or subgrantees during that fiscal year and the amount of State funds that were withheld.

(j) Grantor State agencies shall submit a list to the State Auditor, in the format prescribed by 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, 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.

(k) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County."

SECTION 3. G.S. 147-86.35(b) reads as rewritten:

"(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of ~~G.S. 143-6.1~~.G.S. 143-6.2."

SECTION 4. G.S. 143-722(b) reads as rewritten:

"(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of ~~G.S. 143-6.1~~.G.S. 143-6.2."

SECTION 5. G.S. 143-6.2(d), (e), and (f), as enacted by this act, are effective when they become law. The remainder of this act becomes effective July 1, 2005, and applies to appropriations and grants made for fiscal years beginning on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 12:31 p.m. on the 17th day of August, 2004.

AN ACT TO ENACT THE RECOMMENDATIONS OF THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES TO INCREASE THE QUALIFICATIONS OF PERSONS WHO WILL BE ELIGIBLE TO ADMINISTER SUBSTANCE ABUSE ASSESSMENTS, TO INCREASE THE FEE PAID BY DWI OFFENDERS FOR SUBSTANCE ABUSE ASSESSMENTS, TO STUDY THE MINIMUM QUALIFICATIONS OF INDIVIDUALS CONDUCTING ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS, AND TO STUDY THE FEE PAID BY DWI OFFENDERS FOR EDUCATION OR TREATMENT SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-142.1 is amended by adding a new subsection to read:

"(b1) Persons Authorized to Conduct Assessments. – The following individuals are authorized to conduct a substance abuse assessment under subsection (b) of this section:

- (1) A Certified Substance Abuse Counselor (CSAC), as defined by the Commission.
- (2) A Certified Clinical Addiction Specialist (CCAS), as defined by the Commission.
- (3) A Substance Abuse Counselor Intern who is supervised by a Certified Clinical Supervisor (CCS), as defined by the Commission, and who meets the minimum qualifications established by the Commission for individuals performing substance abuse assessments.
- (4) A person licensed by the North Carolina Medical Board or the North Carolina Psychology Board.
- (5) A physician certified by the American Society of Addiction Medicine (ASAM)."

SECTION 2. G.S. 122C-142.1(b1), as enacted in Section 1 of this act, reads as rewritten:

"(b1) Persons Authorized to Conduct Assessments. – The following individuals are authorized to conduct a substance abuse assessment under subsection (b) of this section:

- (1) A Certified Substance Abuse Counselor (CSAC), as defined by the Commission.
- (2) A Certified Clinical Addiction Specialist (CCAS), as defined by the Commission.
- ~~(3) A Substance Abuse Counselor Intern who is supervised by a Certified Clinical Supervisor (CCS), as defined by the Commission, and who meets the minimum qualifications established by the Commission for individuals performing substance abuse assessments.~~
- (4) A person licensed by the North Carolina Medical Board or the North Carolina Psychology Board.
- (5) A physician certified by the American Society of Addiction Medicine (ASAM)."

SECTION 3. G.S. 122C-142.1(f) reads as rewritten:

"(f) Fees. – A person who has a substance abuse assessment conducted for the purpose of obtaining a certificate of completion shall pay to the assessing agency a fee

of ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100). A person shall pay to a treatment facility or school a fee of seventy-five dollars (\$75.00). If the defendant is treated by an area mental health facility, G.S. 122C-146 applies after receipt of the seventy-five dollar (\$75.00) fee.

A facility that provides to a person who is required to obtain a certificate of completion a substance abuse assessment, an ADET school, or a substance abuse treatment program may require the person to pay a fee required by this subsection before it issues a certificate of completion. As stated in G.S. 122C-146, however, an area facility may not deny a service to a person because the person is unable to pay.

An area facility shall remit to the Department five percent (5%) of each fee paid to the area facility under this subsection by a person who attends an ADET school conducted by the area facility. The Department may use amounts remitted to it under this subsection only to support, evaluate, and administer ADET schools."

SECTION 4. Section 2 of S.L. 2003-396 reads as rewritten:

"**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 certification requirements for persons conducting alcohol and drug education traffic schools, 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.~~ assessment and the adequacy of the fee paid to the treatment facility or school by a client for receiving treatment or education. The Committee must report its findings and any recommended legislation to the ~~2004 Regular Session of the 2003-2005~~ General Assembly."

SECTION 5. Section 1 of this act becomes effective October 1, 2005, and applies to substance abuse assessments conducted on or after that date. Section 2 becomes effective October 1, 2008, and applies to substance abuse assessments conducted on or after that date. Section 3 becomes effective October 1, 2004, and applies to substance abuse assessments administered 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 9th day of July, 2004.

Became law upon approval of the Governor at 12:33 p.m. on the 17th day of August, 2004.

H.B. 1453

Session Law 2004-198

AN ACT TO MAKE IT A CLASS F FELONY TO DISCHARGE A FIREARM ON EDUCATIONAL PROPERTY, AS RECOMMENDED BY THE JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-269.2(b) reads as rewritten:

"(b) It shall be a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind on educational property or to a curricular or extracurricular activity sponsored by a school. Unless the conduct is

covered under some other provision of law providing greater punishment, any person who willfully discharges a firearm of any kind on educational property is guilty of a Class F felony. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol."

SECTION 2. G.S. 14-269.2(h) reads as rewritten:

"(h) No person shall be guilty of a criminal violation of this section with regard to the possession or carrying of a firearm so long as both of the following apply:

- (1) The person comes into possession of a weapon by taking or receiving the weapon from another person or by finding the weapon.
- (2) The person delivers the weapon, directly or indirectly, as soon as practical to law enforcement authorities."

SECTION 3. G.S. 14-269.2(g)(4) reads as rewritten:

"(g) This section shall not apply to:

- ...
 - (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~~ College or for hunting purposes on other educational property when used with the written permission of the governing body of the school that controls the educational property."

SECTION 4. This act becomes effective December 1, 2004, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 15th day of July, 2004.

Became law upon approval of the Governor at 12:34 p.m. on the 17th day of August, 2004.

S.B. 1225

Session Law 2004-199

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS, AS APPROVED BY THE HOUSE RULES, CALENDAR, AND OPERATIONS OF THE HOUSE COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. G.S. 62-3 reads as rewritten:

"§ 62-3. Definitions.

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

- ...
 - (23) ...
 - a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:

1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term "public utility" shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation;
 2. Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation, or operating a public sewerage system for compensation; provided, however, that the term "public utility" shall not include any person or company whose sole operation consists of selling water to less than 15 residential customers, except that any person or company which constructs a water system in a subdivision with plans for 15 or more lots and which holds itself out by contracts or other means at the time of said construction to serve an area containing more than 15 residential building lots shall be a public utility at the time of such planning or holding out to serve such 15 or more building lots, without regard to the number of actual customers connected;
 3. Transporting persons or household goods by street, suburban or interurban bus for the public for compensation;
 4. Transporting persons or household goods by motor vehicles or any other form of transportation for the public for compensation, except motor carriers exempted in G.S. 62-260, carriers by rail, and carriers by air;
 5. Transporting or conveying gas, crude oil or other fluid substance by pipeline for the public for compensation;
 6. Conveying or transmitting messages or communications by telephone or telegraph, or any other means of transmission, where such service is offered to the public for compensation.
- b. The term "public utility" shall for rate-making purposes include any person producing, generating or furnishing any of the foregoing services to another person for distribution to or for the public for compensation.
- c. The term "public utility" shall include all persons affiliated through stock ownership with a public utility doing business in this State as parent corporation or subsidiary corporation as defined in G.S. 55-2 to such an extent that the Commission shall find that such affiliation has an effect on the rates or service of such public utility.

- d. The term "public utility," except as otherwise expressly provided in this Chapter, shall not include a municipality, an authority organized under the North Carolina Water and Sewer Authorities Act, electric or telephone membership corporation; or any person not otherwise a public utility who furnishes such service or commodity only to himself, his employees or tenants when such service or commodity is not resold to or used by others; provided, however, that any person other than a nonprofit organization serving only its members, who distributes or provides utility service to his employees or tenants by individual meters or by other coin-operated devices with a charge for metered or coin-operated utility service shall be a public utility within the definition and meaning of this Chapter with respect to the regulation of rates and provisions of service rendered through such meter or coin-operated device imposing such separate metered utility charge. If any person conducting a public utility shall also conduct any enterprise not a public utility, such enterprise is not subject to the provisions of this Chapter. A water or sewer system owned by a homeowners' association that provides water or sewer service only to members or leaseholds of members is not subject to the provisions of this Chapter.
- e. The term "public utility" shall include the University of North Carolina insofar as said University supplies telephone service, electricity or water to the public for compensation from the University Enterprises defined in G.S. 116-41.1(9).
- f. The term "public utility" shall include the Town of Pineville insofar as said town supplies telephone services to the public for compensation. The territory to be served by the Town of Pineville in furnishing telephone services, subject to the Public Utilities Act, shall include the town limits as they exist on May 8, 1973, and shall also include the area proposed to be annexed under the town's ordinance adopted May 3, 1971, until January 1, 1975.
- g. The term "public utility" shall not include a hotel, motel, time share or condominium complex operated primarily to serve transient occupants, which imposes charges to occupants for local, long-distance, or wide area telecommunication services when such calls are completed through the use of facilities provided by a public utility, and provided further that the local services received are rated in accordance with the provisions of G.S. 62-110(d) and the applicable charges for telephone calls are prominently displayed in each area where occupant rooms are located.
- h. The term "public utility" shall not include the resale of electricity by (i) a campground operated primarily to serve transient occupants, or (ii) a marina; provided that (i) the campground or marina charges no more than the actual cost of the electricity supplied to it, (ii) the amount of electricity used

by each campsite or marina slip occupant is measured by an individual metering device, (iii) the applicable rates are prominently displayed at or near each campsite or marina slip, and (iv) the campground or marina only resells electricity to campsite or marina slip occupants.

- i. The term "public utility" shall not include the State, the Office of ~~the State Controller~~, Information Technology Services, or the Microelectronics Center of North Carolina in the provision or sharing of switched broadband telecommunications services with non-State entities or organizations of the kind or type set forth in G.S. 143B-426.39.
- j. The term "public utility" shall not include any person, not otherwise a public utility, conveying or transmitting messages or communications by mobile radio communications service. Mobile radio communications service includes one-way or two-way radio service provided to mobile or fixed stations or receivers using mobile radio service frequencies.
- k. The term "public utility" shall not include a regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General Statutes.

...."

SECTION 2. G.S. 111-52 reads as rewritten:

"§ 111-52. Profits from Highway Vending Fund.

Profits generated by highway vending locations as of June 30, 1992, and deposited in a special fund in accordance with the ~~Administrative Policies and Procedures Manual~~ policies of the Office of the State Controller shall be reserved for the construction and maintenance of highway vending facility projects."

SECTION 3. G.S. 113-307.1(b) reads as rewritten:

"(b) The State of North Carolina hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937 (Public Law 415, 75th Congress), and the Wildlife Resources Commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in said act of Congress, in compliance with said act and rules and regulations promulgated by the Secretary of ~~Agriculture~~ the Interior thereunder; and no funds accruing to the State of North Carolina from license fees paid by hunters shall be diverted for any other purpose than the protection and propagation of game and wildlife in North Carolina and administration of the laws enacted for such purposes, which laws are and shall be administered by the Wildlife Resources Commission."

SECTION 4. G.S. 115C-102.5(e) reads as rewritten:

"(e) The Department of Public Instruction, the Department of Community Colleges, and the Office of ~~the State Controller~~ Information Technology Services shall provide requested professional and clerical staff to the Commission. The Commission may also employ professional and clerical staff and may hire outside consultants to assist it in its work. The Commission shall use an outside consultant to perform a requirements analysis for learning and instructional management technologies on a statewide basis that is based on information gathered from each local school

administrative unit and that considers the needs of teachers, students, and administrators."

PART II. OTHER CHANGES

SECTION 5.(a) G.S. 1A-1, Rule 5(d), reads as rewritten:

"(d) Filing. – All pleadings subsequent to the complaint shall be filed with the court. All other papers required to be served upon a party, including requests for admissions, shall be filed with the court either before service or within five days thereafter, except that subpoenas, objections to subpoenas under Rule 45(c)(3), depositions, interrogatories, requests for documents, and answers and responses to those requests may not be filed unless ordered by the court or until used in the proceeding. Briefs and memoranda provided to the court may not be filed with the clerk of the court unless ordered by the court. The party taking a deposition or obtaining material through discovery is responsible for its preservation and delivery to the court if needed or so ordered. With respect to all pleadings and other papers as to which service and return has not been made in the manner provided in Rule 4, proof of service shall be made by filing with the court a certificate either by the attorney or the party that the paper was served in the manner prescribed by this rule, or a certificate of acceptance of service by the attorney or the party to be served. Such certificate shall show the date and method of service or the date of acceptance of service."

SECTION 5.(b) This section becomes effective October 1, 2004, and applies to all pending cases and all cases filed on or after that date.

SECTION 6. G.S. 10A-16(d) reads as rewritten:

"(d) This section applies to notarial acts performed on or before ~~March 1, 2003~~ February 1, 2004."

SECTION 7. G.S. 14-33(d) reads as rewritten:

"(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, is guilty of a Class A1 misdemeanor. A person convicted under this subsection, 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 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 8. G.S. 18B-103 is amended by adding a new subdivision to read:

"(11) Under the direct supervision of an instructor during a culinary class that is part of an established culinary curriculum at an accredited college or university, the delivery to or possession or consumption by a student who is less than 21 years of age, when the student is required

to taste or imbibe the alcoholic beverage during a culinary class conducted pursuant to the curriculum."

SECTION 9. G.S. 18B-603(f) reads as rewritten:

"(f) Permits Not Dependent on Elections. – The Commission may issue the following kinds of permits without approval at an election:

- (1) Special occasion permits;
- (2) Limited special occasion permits;
- (3) Brown-bagging permits for private clubs and congressionally chartered veterans organizations;
- (4) Culinary permits, except as restricted by subdivision (d)(5);
- (5) Special one-time permits issued under G.S. 18B-1002;
- (6) All permits listed in G.S. 18B-1100;
- (7) ~~On-premises malt beverage permits and on-premises unfortified wine permits for a tourism ABC establishment;~~ The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ABC establishments;
- (8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism resorts;
- (9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic ABC establishments."

SECTION 10. G.S. 18B-1006(m)(2) reads as rewritten:

- "(2) The Commission may issue permits listed in G.S. 18B-1001(1), (3), (5), and (10) to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4) to qualified establishments defined in G.S. 18B-1000(3) in any county that qualifies for issuance of permits pursuant to ~~G.S. 18B-1006(k)(5)~~. G.S. 18B-1006(k). These permits may be issued without approval at an election and shall be issued only to qualified establishments that meet ~~any~~ all of the following requirements:
- a. Located within one mile of any interstate highway interchange in that ~~county~~ county;
 - b. Located within one mile of an establishment issued a permit under ~~G.S. 18B-1006(k)(5)~~ G.S. 18B-1006(k); and
 - c. Is, or is located within one-quarter mile of, a hotel with 70 or more rooms."

SECTION 11. G.S. 18B-1101(6) reads as rewritten:

"§ 18B-1101. Authorization of unfortified winery permit.

The holder of an unfortified winery permit may:

- ...
- (6) Sell the wine ~~owned~~ manufactured by the winery or produced under the winery's label under subdivision (2a) of this section for on- or off-premise consumption at no more than three other locations in the State, upon obtaining the appropriate permit under G.S. 18B-1001; and
-"

SECTION 12. G.S. 19A-24(1) reads as rewritten:

"§ 19A-24. Powers of Board of Agriculture.

The Board of Agriculture may:

- (1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or

supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations that restrict the number of dogs that are permitted within any primary enclosure.

...."

SECTION 13.(a) G.S. 20-16.1(b) reads as rewritten:

"(b)

- ...
 (3) Upon conviction of such offense outside the jurisdiction of this State the person so convicted may apply to ~~the resident judge of the superior court~~ a district court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which he resides for limited driving privileges hereinbefore defined. Upon such application the judge shall have the authority to issue such limited driving privileges in the same manner as if he were the trial judge.

...."

SECTION 13.(b) G.S. 97-10.2(j) reads as rewritten:

"(j) Notwithstanding any other subsection in this section, in the event that a judgment is obtained by the employee in an action against a third party, or in the event that a settlement has been agreed upon by the employee and the third party, either party may apply to the resident superior court judge of the county in which the cause of action ~~arose, arose or where the injured employee resides or the~~ resides, or to a presiding judge before whom the cause of action is pending, of either district, to determine the subrogation amount. After notice to the employer and the insurance carrier, after an opportunity to be heard by all interested parties, and with or without the consent of the employer, the judge shall determine, in his discretion, the amount, if any, of the employer's lien, whether based on accrued or prospective workers' compensation benefits, and the amount of cost of the third-party litigation to be shared between the employee and employer. The judge shall consider the anticipated amount of prospective compensation the employer or workers' compensation carrier is likely to pay to the employee in the future, the net recovery to plaintiff, the likelihood of the plaintiff prevailing at trial or on appeal, the need for finality in the litigation, and any other factors the court deems just and reasonable, in determining the appropriate amount of the employer's lien. If the matter is pending in the federal district court such determination may be made by a federal district court judge of that division."

SECTION 14. G.S. 20-179.4 reads as rewritten:

"§ 20-179.4. Community service alternative punishment; responsibilities of the Department of ~~Crime Control and Public Safety; Correction; fee.~~

(a) The Department of ~~Crime Control and Public Safety~~ Correction shall conduct a community service alternative punishment program for persons sentenced under G.S. 20-179(i), (j) or (k).

(b) The Secretary of ~~Crime Control and Public Safety~~ Correction shall assign at least one coordinator to each district court district as defined in G.S. 7A-133 to assure and report to the court the person's compliance with the community service sentence. The appointment of each coordinator shall be made in consultation with the chief district court judge in the district to which the coordinator is assigned. Each county must provide office space in the courthouse or other convenient place, necessary equipment, and secretarial service for the use of each coordinator assigned to that county.

(c) A fee of two hundred dollars (\$200.00) shall be paid by all persons serving a community service sentence. That fee shall be paid to the clerk of court in the county in

which the person is convicted. The fee shall be paid in full within two weeks unless the court, upon a showing of hardship by the person, allows additional time to pay the fee. The person may not be required to pay the fee before beginning the community service unless the court specifically orders the person to do so.

(d) Fees collected under this section shall be deposited in the general fund.

(e) The coordinator shall report to the court in which the community service was ordered a significant violation of the terms of the probation judgment related to community service. The court shall then conduct a hearing to determine if there is a willful failure to comply. If the court determines there is a willful failure to pay the prescribed fee or to complete the work as ordered by the coordinator within the applicable time limits, the court shall revoke any limited driving privilege issued in the impaired driving case until the community service requirement has been met and in addition may take any further action authorized by Article 82 of General Statutes Chapter 15A for violation of a condition of probation."

SECTION 15. G.S. 35A-1251(23) reads as rewritten:

"(23) To create a trust for the benefit of the ward pursuant to 42 United States Code § 1396p(d)(4), provided that all amounts remaining in the trust upon the death of the ward, other than those amounts which must be paid to a state ~~government~~, government and those amounts retained by a nonprofit association as set forth in 42 United States Code § 1396p(d)(4)(C), are to be paid to the estate of the ward."

SECTION 16. G.S. 47-2 reads as rewritten:

"§ 47-2. Officials of the United States, foreign countries, and sister states.

The execution of all such instruments and writings as are permitted or required by law to be registered may be proved or acknowledged before any one of the following officials of the United States, of the District of Columbia, of the several states and territories of the United States, of countries under the dominion of the United States and of foreign countries: Any judge of a court of record, any clerk of a court of record, any notary public, any commissioner of deeds, any commissioner of oaths, any mayor or chief magistrate of an incorporated town or city, any ambassador, minister, consul, vice-consul, consul general, vice-consul general, associate consul, or any other person authorized by federal law to acknowledge documents as consular officers, or commercial agent of the United States, any justice of the peace of any state or territory of the United States, any officer of the army or air force of the United States or United States marine corps having the rank of warrant officer or higher, any officer of the United States navy or coast guard having the rank of warrant officer, or higher, or any officer of the United States merchant marine having the rank of warrant officer, or higher. No official seal shall be required of said military, naval or merchant marine official, but he shall sign his name, designate his rank, and give the name of his ship or military organization and the date, and for the purpose of certifying said acknowledgment, he shall use a form in substance as follows:

On this the _____ day of _____, _____, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be accompanying or serving in or with the armed forces of the United States (or to be the spouse of a person accompanying or serving in or with the armed forces of the United States) and to be the person whose name is subscribed to the within instruments and acknowledged that _____ he _____ executed the same for the purposes therein contained. And the undersigned does further certify that he is at the date of this

certificate a commissioned officer of the rank stated below and is in the active service of the armed forces of the United States.

Signature of Officer

Rank of Officer and command to which attached.

If the proof or acknowledgment of the execution of an instrument is had before a justice of the peace of any state of the United States other than this State or of any territory of the United States, the certificate of such justice of the peace shall be accompanied by a certificate of the clerk of some court of record of the county in which such justice of the peace resides, which certificate of the clerk shall be under his hand and official seal, to the effect that such justice of the peace was at the time the certificate of such justice bears date an acting justice of the peace of such county and state or territory and that the genuine signature of such justice of the peace is set to such certificate."

SECTION 17. Article 4 of Chapter 47 of the General Statutes is amended by adding the following new section to read:

"§ 47-50.1. Register's certificate omitted.

In all cases prior to October 1, 2004, where it appears from the records of the office of the register of deeds of any county in this State that the execution of a deed of conveyance or other instrument by law required or authorized to be registered was duly signed and acknowledged as required by the laws of this State, and the register of deeds has failed to certify the correctness of the acknowledgment as required by G.S. 47-14(a), the registrations are hereby validated and the instrument so appearing in the office of the register of deeds of that county is effective to the same extent as if the register of deeds had properly certified the correctness of the acknowledgment."

SECTION 18. G.S. 47-53.1 reads as rewritten:

"§ 47-53.1. Acknowledgment omitting seal of clerk or notary public.

Where any person has taken an acknowledgment as either a notary public or a clerk of a superior court, deputy clerk of a superior court, or assistant clerk of a superior court and has failed to affix his or her seal and ~~such this~~ acknowledgment has been otherwise duly probated and recorded then ~~such this~~ acknowledgment is hereby declared to be sufficient and ~~valid. Provided this shall apply valid.~~ This section applies only to those deeds and other instruments acknowledged prior to January 1, 1991."

SECTION 19. G.S. 55B-2(6) reads as rewritten:

"§ 55B-2. Definitions.

As used in this Chapter, the following words shall, unless the context requires otherwise, have the following meanings:

- ...
- (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 22, "Licensure Act for Speech and Language Pathologists and Audiologists,"~~ and Article 24, "Licensed Professional 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 20.(a) G.S. 58-2-150 reads as rewritten:

"§ 58-2-150. Oath required for compliance with law.

Before issuing license to any insurance company to transact the business of insurance in this State, the Commissioner shall require, in every case, in addition to the other requirements provided for by law, that the company file with him the affidavit of its president or other chief officer that ~~it has not violated any of the provisions of Articles 1 through 64 of this Chapter for the space of 12 months last past, and that it~~ accepts the terms and obligations of Articles 1 through 64 of this Chapter as a part of the consideration of the license."

SECTION 20.(b) G.S. 58-10-20(b) reads as rewritten:

"(b) This Part does not apply to:

...

(4) ~~Any~~ Except as provided in G.S. 58-10-45, any insurer subject to a judicial order of liquidation or rehabilitation.

...."

SECTION 20.(c) G.S. 58-21-65(b)(4) is repealed.

SECTION 20.(d) G.S. 58-22-20 reads as rewritten:

"§ 58-22-20. Risk retention groups not chartered in this State.

Risk retention groups that have been chartered in states other than this State and that seek to do business as risk retention groups in this state must observe and abide by the laws of this State as follows:

...

(4) Compliance With Unfair Claims Settlement Practices Law. – A risk retention group and its agents and representatives shall comply with ~~G.S. 58-3-100(5)~~ G.S. 58-3-100(a)(5) and G.S. 58-63-15(11).

...."

SECTION 20.(e) G.S. 58-33-82(e) reads as rewritten:

"(e) Commissions, fees, or other valuable consideration for the sale, solicitation, or negotiation of insurance may be assigned or directed to be paid in the following circumstances:

- (1) To a business entity by a person who is an owner, shareholder, member, partner, director, employee, or agent of that business entity.
- (2) To a producer in connection with renewals of insurance business originally sold by or through the licensed person or for other deferred commissions.
- (3) In connection with the indirect receipt of commissions in circumstances in which a license is not required under ~~G.S. 58-33-26(m)~~ G.S. 58-33-26(n)."

SECTION 20.(f) G.S. 58-36-90(e) reads as rewritten:

"(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-credit~~ 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."

SECTION 20.(g) G.S. 58-36-90(f) reads as rewritten:

"(f) Filing. – Insurers that use ~~insurance-credit~~ scores to underwrite and rate risks shall file their scoring models, or other scoring processes, with the Department. A filing that includes ~~insurance-credit~~ 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 20.(h) G.S. 97-165(10) reads as rewritten:**"§ 97-165. Definitions.**

As used in this Article:

...

- (10) "Self-insurer" means ~~a single-an~~ employer who retains liability under the Act and is licensed under this Article."

SECTION 21. G.S. 58-3-33(a) reads as rewritten:

"(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 all of the person's physicians-medical providers to release to the insurer the person's medical records for the three years prior to the date on which the claim arose-arose, as well as all medical records pertaining to the claimed injury.

...."

SECTION 22.(a) G.S. 58-85-1 reads as rewritten:**"§ 58-85-1. Application of fund.**

The money paid into the hands of the treasurer of the North Carolina State Firemen's Association shall be known and remain as the "Firemen's Relief Fund" of North Carolina, and shall be used as a fund for the relief of ~~firemen, firemen and county fire marshals, who are members of such-this~~ Association, who may be injured or rendered sick by disease contracted in the actual discharge of duty as ~~firemen, firemen or county fire marshals,~~ and for the relief of widows, children, and if there be no widow or children, then dependent mothers of ~~such-the~~ firemen and county fire marshals killed or dying from disease so contracted in ~~such-the~~ discharge of duty; to be paid in ~~such-the~~ manner and in ~~such-the~~ sums to ~~such-the~~ individuals of the classes herein named and

described as may be provided for and determined upon in accordance with the constitution and bylaws of ~~said the~~ Association, and ~~such any~~ provisions and determinations made ~~pursuant to said under the~~ constitution and bylaws shall be final and conclusive as to the persons entitled to benefits and as to the amount of benefit to be received, and no action at law shall be maintained against ~~said the~~ Association to enforce any claim or recover any benefit under this Article or under the constitution and bylaws of ~~said the~~ Association; but if any officer or committee of ~~said the~~ Association omit or refuse to perform any duty imposed upon him or them, nothing herein contained shall be construed to prevent any proceedings against ~~said that~~ officer or committee to compel him or them to perform ~~such that~~ duty. No fireman or county fire marshal shall be entitled to receive any benefits under this section until the firemen's relief fund of his city or town ~~shall have~~ has been exhausted. Notwithstanding the above provisions, the Executive Board of the North Carolina State Firemen's Association is hereby authorized to grant educational scholarships to members and the children of members, to subsidize premium payments of members over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina State Firemen's Association, and to provide accidental death and dismemberment insurance for members of those fire departments not eligible for benefits pursuant to standards of certification adopted by the State Firemen's Association for the use of local relief funds."

SECTION 22.(b) G.S. 58-85-15 reads as rewritten:

"§ 58-85-15. Who shall participate in the fund.

The line of duty entitling one to participate in the fund shall be so construed as to mean actual fire duty only, and any actual duty connected with the fire department or county fire marshal office when directed to perform the same by an officer in charge."

SECTION 22.(c) G.S. 58-85-20 reads as rewritten:

"§ 58-85-20. Who may become members.

Any organized fire company in North Carolina, holding itself ready for duty, may, upon compliance with the requirements of ~~said its~~ constitution and bylaws, become a member of the North Carolina State Firemen's Association, and any fireman of good moral character in North Carolina, and belonging to an organized fire company, who ~~will comply~~ complies with the requirements of the constitution and bylaws of the North Carolina State Firemen's Association, may become a member of ~~said the~~ Association. Any county fire marshal office may, upon compliance with the requirements of its constitution and bylaws, become a member of the North Carolina Firemen's Association, and any employee of a county fire marshal office of good moral character whose sole duty is to act as a fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county, who complies with the requirements of its constitution and bylaws, may become a member of the North Carolina Firemen's Association."

SECTION 22.(d) G.S. 58-85-25 reads as rewritten:

"§ 58-85-25. Applied to members of regular fire company.

~~The provisions of~~ G.S. 58-85-1, 58-85-10, 58-85-15, 58-85-20, and 58-85-25 shall apply to any fireman or fire marshal who is a member of a regularly organized fire ~~company, company~~ or county fire marshal office, and is a member in good standing of the North Carolina State Firemen's Association."

SECTION 23. G.S. 62-82(a) reads as rewritten:

"(a) Notice of Application for Certificate for Generating Facility; Hearing; Briefs and Oral Arguments. – Whenever there is filed with the Commission an application for a certificate of public convenience and necessity for the construction of a facility for the generation of electricity under G.S. 62-110.1, the Commission shall require the

applicant to publish a notice thereof once a week for four successive weeks in a daily newspaper of general circulation in the county where such facility is proposed to be constructed and thereafter the Commission upon complaint shall, or upon its own initiative may, upon reasonable notice, enter upon a hearing to determine whether such certificate shall be awarded. Any such hearing must be commenced by the Commission not later than three months after the filing of such application, and the procedure for rendering decisions therein shall be given priority over all other cases on the Commission's calendar of hearings and decisions, except rate proceedings referred to in G.S. 62-81. Such applications shall be heard as provided in G.S. 62-60.1, and the Commission shall furnish a transcript of evidence and testimony submitted by the end of the second business day after the taking of each day of testimony. The Commission or panel shall require that briefs and oral arguments in such cases be submitted within 30 days after the conclusion of the hearing, and the Commission or panel shall render its decision in such cases within 60 days after submission of such briefs and arguments. If the Commission or panel does not, upon its own initiative, order a hearing and does not receive a complaint within 10 days after the last day of publication of the notice, the Commission or panel shall enter an order awarding the certificate. Notwithstanding this section, applicants for a certificate for solar photovoltaic facilities of 10 kilowatts or less are exempt from the requirement to publish public notice in newspapers."

SECTION 24. G.S. 66-27.1(a) reads as rewritten:

"(a) No individual, firm, corporation or business shall install, sell or offer for sale any automatic hot water tank or heater of 120-gallon capacity or ~~less-less~~, except for a tankless water heater, which does not have installed thereon by the manufacturer of such the tank or heater an American Society of Mechanical Engineers and National Board of Boiler and Pressure Vessel Inspectors approved type pressure-temperature relief valve set at or below the safe working pressure of the tank as indicated, and so labeled by the manufacturer's identification stamped or cast upon the tank or heater or upon a plate secured to it."

SECTION 25. G.S. 90-85.21A(a) reads as rewritten:

"(a) Any pharmacy operating outside the State which ships, mails, or delivers in any manner a dispensed legend drug into this State shall annually register with the Board on a form provided by the Board. In order to satisfy the registration requirements of this subsection, a pharmacy shall certify that the pharmacy employs a pharmacist who is responsible for dispensing, shipping, mailing, or delivering dispensed legend drugs into this State or in a state approved by the Board and has met requirements for licensure equivalent to the requirements for licensure in this State. In order for the pharmacy's certification of the pharmacists to be valid, a pharmacist shall agree in writing, on a form approved by the Board, to be subject to the jurisdiction of the Board, the provisions of this Article, and the rules adopted by the Board. If the Board revokes this certification, the pharmacy shall no longer have authority to dispense, ship, mail, or deliver in any manner a dispensed legend drug into this State."

SECTION 26.(a) G.S. 90-171.21(d) reads as rewritten:

"(d) Qualifications. – 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. Minimum ongoing employment requirements for every registered nurse and licensed practical nurse shall include continuous employment equal to or greater than fifty percent (50%) of a full-time position that meets the criteria for the specified Board member position. 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) Except for the at-large member, every registered nurse member shall meet the following criteria:
 - a. Hold a current, unencumbered license to practice as a registered nurse in North Carolina.
 - a1. Be a resident of North Carolina.
 - b. Have a minimum of five years of experience as a registered nurse.
 - c. Have been engaged continuously in 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) Every licensed practical nurse member shall meet the following criteria:
 - a. Hold a current, unencumbered license to practice as a licensed practical nurse in North Carolina.
 - a1. Be a resident of North Carolina.
 - c. Have a minimum of five years of experience as a licensed practical nurse.
 - d. Have been engaged continuously in the position of a licensed practical 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 provider 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."

SECTION 26.(b) This section is effective when it becomes law and applies to members elected to the Board on or after January 1, 2005.

SECTION 27.(a) Article 28B of Chapter 106 of the General Statutes is repealed.

SECTION 27.(b) G.S. 120-123(36) is repealed.

SECTION 27.(c) G.S. 143B-431(a)(2)(i) is repealed.

SECTION 27.(d) G.S. 143B-433(l)(i) is repealed.

SECTION 27.(e) G.S. 106-577 reads as rewritten:

"§ 106-557. Notice of referendum; statement of amount, basis and purpose of assessment; maximum assessment.

With respect to any referendum conducted under the provisions of this Article, the duly certified commission, council, board or other agency shall, before calling and announcing such referendum, fix, determine and publicly announce at least 30 days before the date determined upon for such referendum, the date, hours and polling places for voting in such referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if authorized by the growers, and the general purposes to which said amount so collected shall be applied; no annual assessment levied under the provisions of this Article shall exceed one half of one percent (1/2 of 1%) of the value of the year's production of such agricultural commodity grown by any farmer, producer or grower included in the group to which such referendum is submitted. Provided, that the assessment for the research and promotion programs of the American Dairy Association of North Carolina may be fixed on the volume of milk sold not to exceed one percent (1%) of the statewide blend price paid to all North Carolina producers during the previous calendar year for three and one-half percent (3.5%) milk as computed by the ~~North Carolina Milk Commission~~. United States Department of Agriculture. Provided further, that the assessment authorized by this Article and collected by the Commissioner of Agriculture to be paid to the North Carolina Yam Commission, Inc., or other duly certified agencies entitled thereto for research, marketing and promotional programs related to yams or sweet potatoes may be levied at a rate not to exceed two percent (2%) of the value of the year's production of that agricultural commodity grown by any farmer, producer or grower included in the group to which the referendum is submitted, and when authorized by two-thirds or more of the farmers, producers or growers in the area in which the referendum is conducted, the rate of the assessment may remain in effect for the length of time provided in the referendum. Provided further, that the assessment authorized by this Article on peanuts may not exceed two percent (2%) of the price paid to the producer."

SECTION 27.(f) G.S. 44-69.3 reads as rewritten:

"§ 44-69.3. Liens on tangible and intangible assets of milk distributors.

(a) A producer, or an association of producers who supplies milk either through an agreement of sale or on consignment to a distributor shall, upon complying with the provisions of this section, have a lien upon the tangible and intangible assets, including but not limited to the accounts receivable of the distributor to secure payment for such milk. ~~For purposes of this section the term "milk" is as defined in Article 28B of~~

~~Chapter 106 of the General Statutes.~~ For the purposes of this section, 'milk' means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or other process.

(b) The lien claimed by the producer or association of producers must be filed in the office of the clerk of court for the county of the distributor's principal place of business. Provided that if the distributor is not a resident of the State a filing must be made with the clerk of superior court for the county in which the distributor's registered office is located. The clerk shall note the claim of lien on the judgment docket and index the same under the name of the distributor at the time the claim is filed.

(c) A producer or association of producers claiming nonpayment for milk sold to a distributor shall file with the clerk a notarized statement of nonpayment. The statement shall contain at a minimum all of the following information:

- (1) The name of the distributor who received the ~~milk;~~milk.
- (2) The date and quantity of milk shipped for which payment has not been ~~received; and~~received.
- (3) ~~A statement from the North Carolina Milk Commission certifying the amount due from the distributor, and the date payment was due.~~

The producer or association of producers shall furnish a copy of the statement as provided by this subsection to the distributor, which shall constitute a notice of claim of lien. The notice shall be served personally by a person authorized by law to serve process or by certified mail. The lien granted by this section shall be effective as of the time it is filed with the clerk of court. Provided the distributor shall have the right to contest the validity of such lien by filing, with the clerk of court and serving on the producer within 10 days after he receives notice that the producer has filed a claim of lien, a notice that the distributor contest the amount due thereunder. In the event the distributor fails to contest the lien or is unsuccessful in obtaining a discharge of the lien, the lien shall be perfected as of the date of filing with the clerk of court.

(d) The lien created by this section may be discharged in any of the following manner:

- (1) ~~By filing with the clerk of superior court a receipt of acknowledgment signed by the chairman of the North Carolina Milk Commission or his designee, that the lien has been discharged;~~
- (2) By depositing with the clerk of superior court money equal to the amount of the claim, which money shall be held for the benefit of the ~~producer; or~~producer.
- (3) By an entry in the lien docket that the action on the part of the lien claimant to enforce the lien has been dismissed or a judgment has been rendered against the claimant in such action.
- (4) By filing with the clerk a sworn statement signed by the producer or an official of an association of producers that the lien or claim of lien has been satisfied.

(e) Action to enforce the lien created by this section may be instituted in any court of competent jurisdiction in the county where the lien was filed not later than 90 days following the maturity of the distributor's obligation to pay for the milk. In the event no action to enforce the lien is commenced within the 90-day period the lien created hereby shall no longer be valid. ~~Nothing herein shall prohibit the North Carolina Milk Commission from acting as a mediator or an arbitrator between the distributor and producer or association of producers when there is a claim of nonpayment at any time before or after claim of lien is filed but before a judgment is rendered."~~

SECTION 28. G.S. 114-19.50, Article VI. Establishment of Compact Council., subsection (b)(3), reads as rewritten:

"(b) The council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

...

- (3) Two at-large members, nominated by the chair of the council once the chair is elected pursuant to ~~subsection (e)(3)~~ subsection (c) 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;

...."

SECTION 29.(a) G.S. 115C-522(a) reads as rewritten:

"(a) It shall be the duty of local boards of education to purchase or exchange all supplies, 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. 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. Compliance with Article 8 of Chapter 143 of the General Statutes is not mandatory for the purchase of published books, manuscripts, maps, pamphlets, and periodicals.

- (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 29.(b) This section becomes effective April 1, 2004.

SECTION 30.(a) G.S. 115C-549 reads as rewritten:

"§ 115C-549. Standardized testing requirements.

Each private church school or school of religious charter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 30.(b) G.S. 115C-550 reads as rewritten:

"§ 115C-550. High school competency testing.

To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each private church school or school of religious charter shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each private church school or school of religious charter shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 30.(c) G.S. 115C-557 reads as rewritten:

"§ 115C-557. Standardized testing requirements.

Each qualified nonpublic school shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13,

at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 30.(d) G.S. 115C-558 reads as rewritten:

"§ 115C-558. High school competency testing.

To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each qualified nonpublic school shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each qualified nonpublic school shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 31.(a) G.S. 120-85 reads as rewritten:

"§ 120-85. Definitions.

As used in this Article:

- (1) "Business with which ~~he is~~ associated" means any enterprise, incorporated or otherwise, doing business in the State of which ~~the legislator~~ the person or any member of ~~his~~ the person's immediate household is a director, officer, owner, partner, employee, or of which ~~the legislator~~ the person and ~~his~~ the person's immediate household, either singularly or collectively, is a holder of securities worth five thousand dollars (\$5,000) or more at fair market value as of December 31 of the preceding year, or constituting five percent (5%) or more of the outstanding stock of ~~such~~ the enterprise.
- (1a) "Economic interest" includes matters involving a business with which the person is associated or a nonprofit corporation or organization with which the person is associated.
- (2) "Immediate household" means ~~the legislator, his person, the person's spouse, and all of the person's dependent children of the legislator.~~ children.
- (2a) "Nonprofit corporation or organization with which associated" means any public or private enterprise, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the person or any member of the person's immediate household is a director, officer, governing board member, employee or independent contractor as of December 31 of the preceding year.
- (3) "Vested trust" as set forth in G.S. 120-96(4) means any trust, annuity or other funds held by a trustee or other third party for the benefit of ~~the member~~ the person or a member of ~~his~~ the person's immediate household."

SECTION 31.(b) G.S. 120-87 reads as rewritten:

"§ 120-87. Disclosure of confidential information.

(a) No legislator shall use or disclose in any way confidential information gained in the course of the legislator's official activities or by reason of ~~his~~ the legislator's

official position or activities in any way that could result in financial gain for himself, for: (i) the legislator; (ii) a business with which he the legislator is associated or associated; (iii) a nonprofit corporation or organization with which the legislator is associated; (iv) a member of his the legislator's immediate household household; or (v) any other person.

(b) As used in this section, "confidential information" means information defined as confidential by statute.

SECTION 31.(c) G.S. 120-96 reads as rewritten:

"§ 120-96. Contents of statement.

(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the Committee, and the person filing the statement shall supply all of the following information:

- (1) The identity, by name, of any business all businesses, nonprofit corporations or organizations with which he, or any member of his immediate household, is associated; the person is associated.
- (2) The character and location of all real estate of a fair market value in excess of more than five thousand dollars (\$5,000), other than his the person's personal residence (curtilage), in the State in which he, the person, or a member of his the person's immediate household, has any beneficial interest, including an option to buy and a lease for 10 years or over; more.
- (3) The type of each creditor to whom he, the person, or a member of his the person's immediate household, owes money, more than five thousand dollars (\$5,000), except indebtedness secured by lien upon his the person's personal residence only, in excess of five thousand dollars (\$5,000); only.
- (4) The name of each "vested trust" in which he the person or a member of his the person's immediate household has a financial interest in excess of more than five thousand dollars (\$5,000) and the nature of such interest; the interest.
- (5) The name and nature of his the person and his the person's immediate household member's respective business or profession or employer and the types of customers and types of clientele served; served.
- (6) A list of businesses with which he the person is associated that do business with the State, and a brief description of the nature of such business; and the business.
- (6a) A list of nonprofit corporations or organizations with which the person is associated and which receive State funds, and a brief description of the nature of the programs receiving funds.
- (7) In the case of professional persons and associations, a person who practices a profession, whether individually or as a member of a professional association, a list of classifications of business clients clients, by the type of business, whom the person or the person's firm or partnership has which classes were charged or who have paid to the person or the person's firm or partnership two thousand five hundred dollars (\$2,500) or more for professional services rendered during the previous calendar year for professional services rendered by him, his firm or partnership. year. This list need not include the name of the

client but shall list the type of the business of each such client or class of client, and brief description of the nature of the services rendered.

(b) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the signature date."

SECTION 31.(d) G.S. 120-99 reads as rewritten:

"§ 120-99. Creation; composition.

(a) The Legislative Ethics Committee is created to consist of ten members, five Senators appointed by the President Pro Tempore of the Senate, among them – two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader, and five members of the House of Representatives appointed by the Speaker of the House, among them – two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader.

(b) The President Pro Tempore of the Senate and the Speaker of the House as the appointing officers shall each designate a cochair of the Legislative Ethics Committee from the respective officer's appointees. The cochair appointed by the President Pro Tempore of the Senate shall preside over the Legislative Ethics Committee during the odd-numbered year, and the cochair appointed by the Speaker of the House shall preside in the even-numbered year. However, a cochair may preside at anytime during the absence of the presiding cochair or upon the presiding cochair's designation. In the event a cochair is unable to act as cochair on a specific matter before the Legislative Ethics Committee, and so indicates in writing to the appointing officer and the Legislative Ethics Committee, the respective officer shall designate from that officer's appointees a member to serve as cochair for that specific matter.

(c) The provisions of G.S. 120-19.1 through G.S. 120-19.8 shall apply to the proceedings of the Legislative Ethics Committee as if it were a joint committee of the General Assembly, except that both cochairs shall sign all subpoenas on behalf of the Committee."

SECTION 31.(e) G.S. 120-100 reads as rewritten:

"§ 120-100. Term of office; vacancies.

(a) Appointments to the Legislative Ethics Committee shall be made immediately after the convening of the regular session of the General Assembly in odd-numbered years, and appointees shall serve until the expiration of their then-current terms as members of the General Assembly.

(b) A vacancy occurring for any reason during a term shall be filled for the unexpired term by the authority making the appointment which caused the vacancy, and the person appointed to fill the vacancy shall, if possible, be a member of the same political party as the member who caused the vacancy.

(c) In the event a member of the Legislative Ethics Committee is unable to act on a specific matter before the Legislative Ethics Committee, and so indicates in writing to the appointing officer and the Legislative Ethics Committee, the appointing officer may appoint another member of the respective chamber from a list submitted by the majority leader or minority leader who nominated the member who is unable to act on the matter to serve as a member of the Legislative Ethics Committee for the specific matter only. If on any specific matter, the number of members of the Legislative Ethics Committee who are unable to act on a specific matter exceeds four members, the appropriate appointing officer shall appoint other members of the General Assembly to serve as members of the Legislative Ethics Committee for that specific matter only."

SECTION 31.(f) Subsections (a), (b) and (c) of this section are effective January 1, 2006, and apply to candidates running for office on or after that

date, to persons appointed to fill vacancies for the 2007 and subsequent General Assemblies, and to presiding officers of the 2007 and subsequent General Assemblies. The remainder of this section is effective when it becomes law.

SECTION 32. G.S. 122C-22(a) reads as rewritten:

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

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

- (1) Physicians and psychologists engaged in private office practice;
- (2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;
- (3) State and federally operated facilities;
- (4) Adult care homes licensed under Chapter 131D of the General Statutes;
- (5) Developmental child care centers licensed under Article 7 of Chapter 110 of the General Statutes;
- (6) Persons subject to licensure under rules of the Social Services Commission;
- (7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services;
- (8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14);
- (9) Twenty-four-hour nonprofit facilities established for the purposes of shelter care and recovery from alcohol or other drug addiction through a 12-step, self-help, peer role modeling, and self-governance approach; ~~and~~
- (10) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction, as described in ~~G.S. 148-19.1~~ G.S. 148-19.1; and
- (11) A charitable, nonprofit, faith-based, adult residential treatment facility that does not receive any federal or State funding and is part of an international organization serving at least 50 countries that helps persons ages 18 through 40 overcome life-controlling problems and is a religious organization exempt from federal income tax under section 501(a) of the Internal Revenue Code."

SECTION 33. G.S. 130A-475(b), as enacted by S.L. 2004-80, reads as rewritten:

"(b) The authority under subsection (a) of this section shall be exercised only when and so long as a public health threat may exist, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists. Before applying the authority under subdivision (4) or (5) of subsection (a) of this section to livestock or poultry for the purpose of preventing the direct or indirect conveyance of a biological, chemical or nuclear agent to persons, the State Health Director shall consult with the State Veterinarian in the Department of Agriculture and Consumer Services.

The period of limited freedom of movement or access under subdivisions (4) and (5) of subsection (a) of this section shall not exceed 30 calendar days. Any person substantially affected by that limitation may institute, in superior court in Wake County

or in the county in which the limitation is imposed, an action to review the limitation. The State Health Director shall give the persons known by the State Health Director to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of the request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce or terminate the limitation unless it determines, by the preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical or nuclear agents to others, and may apply such conditions to the limitation as the court deems reasonable and necessary.

If the State Health Director determines that a 30-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director must institute in superior court in the county in which the limitation is imposed, an action to obtain an order extending the period limiting the freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake County or as a counterclaim in the pending case. The court shall continue the limitation for a period not to exceed 30 days, subject to conditions it deems reasonable and necessary, if it determines by the preponderance of the evidence, that additional limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical, or nuclear agents to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the quarantine or isolation limitation on freedom of movement or access is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that quarantine or isolation the limitation on freedom of movement or access was not or is no longer needed for protection of the public health, the person quarantined or isolated so limited may move the trial court to reconsider its order extending quarantine or isolation the limitation on freedom of movement or access before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order issued under this section, the State Health Director may move to continue the order for additional periods not to exceed 30 days each."

SECTION 34.(a) G.S. 135-1(25) reads as rewritten:

"(25) "Teacher" shall mean any teacher, helping teacher, ~~classroom~~-teacher in a job-sharing position ~~as defined in G.S. 115C-302.2(b) under G.S. 115C-326.5~~ except for a beneficiary in that position, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the State: Provided, that the term "teacher" shall not include any part-time, temporary, or substitute teacher or employee except for a ~~classroom~~-teacher in a job-sharing position, and shall not include those participating in an

optional retirement program provided for in G.S. 135-5.1 or G.S. 135-5.4. In all cases of doubt, the Board of Trustees, hereinbefore defined, shall determine whether any person is a teacher as defined in this Chapter. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "teacher" solely because the person holds a temporary or time-limited visa. Notwithstanding the foregoing, the term "teacher" shall not include any nonimmigrant alien employed in elementary or secondary public schools (whether employed in a full-time, part-time, temporary, permanent, or substitute teacher position) and participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62."

SECTION 34.(b) G.S. 135-40.2(a2) reads as rewritten:

"(a2) A school employee in a job-sharing position as defined in ~~G.S. 115C-302.2(b)~~ G.S. 115C-326.5(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 35. G.S. 143-34.1(d) reads as rewritten:

"(d) Notwithstanding any other provisions of law relating to the salaries of officers and employees of departments, institutions, and agencies of State government, the Director of the Budget is authorized to provide a plan of flexible compensation to eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not include those replace, substitute for, or duplicate any benefits provided to employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3, 4, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. Statutes. The plan may, however, include offerings for products and benefits that are supplemental or additional to these statutory benefits. In providing a plan of flexible compensation, the Director of the Budget may authorize State departments, institutions, and agencies to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 36.(a) Part 3 of Article 3A of Chapter 143 of the General Statutes is repealed.

SECTION 36.(b) G.S. 143-129.8(b) reads as rewritten:

"(b) Contracts for information technology may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

- (1) Notice of the request for proposals shall be given in accordance with ~~G.S. 143-129(a)~~G.S. 143-129(b).
- (2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals."

SECTION 37.(a) Article 9 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-143.5. Access to toilets in shopping malls.

Notwithstanding any other law or rule, a horizontal travel distance of 300 feet for access to public use toilets in covered mall buildings shall be allowed."

SECTION 37.(b) This section is effective when it becomes law and applies to covered mall buildings for which building permits are issued on or before December 1, 2005. This section expires December 1, 2005.

SECTION 38. G.S. 143-64 reads as rewritten:

"§ 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. Contracts for the sale of juice and contracts for the sale of bottled water shall each be bid separately from each other and separately from any other contract, including contracts for other beverages or vending machine services. 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 39.(a) G.S. 153A-442 reads as rewritten:

"§ 153A-442. Animal shelters.

A county may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited as to use by law. The animal shelters shall meet the same standards as animal shelters regulated by the Department of Agriculture pursuant to its authority under Chapter 19A of the General Statutes."

SECTION 39.(b) G.S. 160A-493 reads as rewritten:

"§ 160A-493. Animal shelters.

A city may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited as to use by law. The animal shelters shall meet the same standards as animal shelters regulated by the Department of Agriculture pursuant to its authority under Chapter 19A of the General Statutes."

SECTION 40. G.S. 157-9 is amended by adding the following new subsection to read:

"(d) A housing authority shall not erect or maintain around any lawfully occupied housing units any fence or gate structure that is electrified or that includes spikes or barbed wire."

SECTION 41.(a) G.S. 160A-361 reads as rewritten:

"§ 160A-361. Planning agency boards.

(a) Any city may by ordinance create or designate one or more ~~agencies boards~~ or commissions to perform the following duties:

- (1) Make studies of the area within its jurisdiction and surrounding areas;

- (2) Determine objectives to be sought in the development of the study area;
 - (3) Prepare and adopt plans for achieving these objectives;
 - (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
 - (5) Advise the council concerning the use and amendment of means for carrying out plans;
 - (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the council may direct;
 - (7) Perform any other related duties that the council may direct.
- (b) ~~An agency~~ A board or commission created or designated pursuant to this section may include, but shall not be limited to, one or more of the following:
- (1) A planning board or commission of any size (with not fewer than three members) or composition deemed appropriate, organized in any manner deemed appropriate;
 - (2) A joint planning board created by two or more local governments pursuant to Article 20, Part 1, of this Chapter."

SECTION 41.(b) G.S. 160A-363 reads as rewritten:

"§ 160A-363. Supplemental powers.

A city or its designated planning ~~agency-board~~ may accept, receive, and disburse in furtherance of its functions any funds, grants, and services made available by the federal government and its agencies, the State government and its agencies, any local government and its agencies, and any private and civic sources. Any city, or its designated planning ~~agency-board~~ with the concurrence of the council, may enter into and carry out contracts with the State and federal governments or any agencies thereof under which financial or other planning assistance is made available to the city and may agree to and comply with any reasonable conditions that are imposed upon such assistance.

Any city, or its designated planning ~~agency-board~~ with the concurrence of the council, may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. Any city, or its designated planning ~~agency-board~~ with the concurrence of its council, may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to pay the other local government or planning ~~agency-board~~ for technical planning assistance.

Any city council is authorized to make any appropriations that may be necessary to carry out any activities or contracts authorized by this Article or to support, and compensate members of, any planning ~~agency-board~~ that it may create pursuant to this Article, and to levy taxes for these purposes as a necessary expense."

SECTION 41.(c) G.S. 153A-321 reads as rewritten:

"§ 153A-321. Planning agency-boards.

A county may by ordinance create or designate one or more ~~agencies-boards or commissions~~ to perform the following duties:

- (1) Make studies of the county and surrounding areas;
- (2) Determine objectives to be sought in the development of the study area;
- (3) Prepare and adopt plans for achieving these objectives;

- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the board of commissioners concerning the use and amendment of means for carrying out plans;
- (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;
- (7) Perform any other related duties that the board of commissioners may direct.

~~An agency~~ A board or commission created or designated pursuant to this section may include but shall not be limited to one or more of the following:

- (1) A planning board or commission of any size (with not fewer than three members) or composition considered appropriate, organized in any manner considered appropriate;
- (2) A joint planning board created by two or more local governments according to the procedures and provisions of Chapter 160A, Article 20, Part 1."

SECTION 41.(d) G.S. 153A-322 reads as rewritten:

"§ 153A-322. Supplemental powers.

A county or its designated planning ~~agency-board~~ board may accept, receive, and disburse in furtherance of its functions funds, grants, and services made available by the federal government or its agencies, the State government or its agencies, any local government or its agencies, and private or civic sources. A county, or its designated planning ~~agency-board~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with the State or federal governments or any agencies of either under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.

A county, or its designated planning ~~agency-board~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. A county, or its designated planning ~~agency-board~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning ~~agency-board~~ board under which it agrees to pay the other local government or planning ~~agency-board~~ board for technical planning assistance.

A county may make any appropriations that may be necessary to carry out an activity or contract authorized by this Article, by Chapter 157A, or by Chapter 160A, Article 19 or to support, and compensate members of, any planning agency that it may create or designate pursuant to this Article."

SECTION 41.(e) G.S. 160A-392 reads as rewritten:

"§ 160A-392. Part applicable to buildings constructed by State and its subdivisions; exception.

All of the provisions of this Part are hereby made applicable to the erection, construction, and use of buildings and land by the State of North Carolina and its political subdivisions.

Notwithstanding the provisions of any general or local law or ordinance, no land owned by the State of North Carolina may be included within ~~an overlay district or a~~

~~special use or conditional use district without approval of the Council of State.~~ State or its designate."

SECTION 41.(f) This section becomes effective October 1, 2004.

SECTION 42. Section 11 of Chapter 149 of the 1931 Session Laws, as amended by Chapter 255 of the 1947 Session Laws and Chapter 745 of the 1953 Session Laws and Chapter 20 of the 1985 Session Laws is rewritten to read:

"The term of the School Board shall be for four years. In case of any vacancy on the Board, the vacancy shall be filled by an election by the governing body of the City of Asheville. As soon as practicable after the first Monday of April, 1931, and each biennial year thereafter, the Board shall meet and elect a chairman, who shall preside over the meetings of the Board. A majority of the members of the Board shall constitute a quorum. The chairman or any two members may call a meeting."

SECTION 43.(a) Section 5 of Chapter 208 of the 1993 Session Laws, as amended by Section 1 of S.L. 2004-66, is amended by adding the phrase "Pitt County" before the word "Brunswick".

SECTION 43.(b) Section 6 of Chapter 208 of the 1993 Session Laws, as amended by Section 2 of S.L. 2004-66, is amended by adding the phrase "Pitt County," before the word "Brunswick".

SECTION 43.(c) Section 9 of Chapter 208 of the 1993 Session Laws, as amended by Section 3 of S.L. 2004-66, is amended by adding the word "Pitt County and" before the word "Brunswick".

SECTION 44.(a) Section 1 of Chapter 196 of the 1995 Session Laws reads as rewritten:

"Section 1. The provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles are applicable to the drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known, on the properties owned by or under the control of The Colington Harbour Association, Inc., or the Martin's Point Homeowners Association, Inc., and shown on the several plats recorded in the office of the Register of Deeds of Dare County. For purposes of this act, drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known shall have the same meaning as highways and public vehicular areas pursuant to G.S. 20-4.01. A violation of any of those laws is punishable as prescribed by those laws."

SECTION 44.(b) Section 2 of Chapter 196 of the 1995 Session Laws reads as rewritten:

"Sec. 2. This act shall not be construed as in any way interfering with the ownership and control of the drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known, of The Colington Harbour Association, Inc., or the Martin's Point Homeowners Association, Inc., nor does this require the removal of the private guard gate belonging to ~~the~~ either Association."

SECTION 45. The introductory language of subsection (b) of Section 2 of S.L. 1997-41, as amended by S.L. 1998-19, S.L. 2001-318, S.L. 2003-55, and S.L. 2003-260 reads as rewritten:

"(b) The Board of the North Carolina Indian Cultural Center, Inc., shall consist of 20 members, appointed as follows:"

SECTION 46.(a) The lead-in language of Section 1 of S.L. 2003-392 reads as rewritten:

"**SECTION 1.** G.S. 153A-225 is amended by adding the following new subsection to read:"

SECTION 46.(b) This section becomes effective August 7, 2003.

SECTION 47.(a) If House Bill 281, Regular Session 2003, becomes law, Section 20 of House Bill 281, 2003 Regular Session, is repealed.

SECTION 47.(b) G.S. 14-298 reads as rewritten:

"§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.~~ Seizure of illegal gaming items.

~~All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath~~ Upon a determination that probable cause exists to believe that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, is in the illegal possession or use of any person within the limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to seize the items in accordance with applicable State law to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction. Any law enforcement agency in possession of that item shall retain the item pending a disposition order from a district or superior court judge. Upon application by the law enforcement agency, district attorney, or owner, and after notice and opportunity to be heard by all parties, if the court determines that the item is unlawful to possess, it shall enter an order releasing the item to the law enforcement agency for destruction or for training purposes. If the court determines that the item is not unlawful to possess and will not be used in violation of the law, the item shall be ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures for release shall not apply, however, with respect to an item seized for use as evidence in any criminal action or proceeding until after entry of final judgment."

SECTION 47.(c) This section becomes effective October 1, 2004.

SECTION 48. If House Bill 281, 2003 Regular Session, becomes law, then G.S. 148-32.1(a), as amended by Section 54 of House Bill 281, 2003 Regular Session, reads as rewritten:

"(a) The Department of Correction shall pay each local confinement facility a standard sum set by the General Assembly in its appropriation acts at a per day, per inmate rate, for the cost of providing food, clothing, personal items, supervision and necessary ordinary medical services to those inmates committed to the custody of the local confinement facility to serve criminal sentences of 30 days or more. This reimbursement shall not include any period of detention prior to actual commitment by the sentencing court. The Department shall also pay to the local confinement facility extraordinary medical expenses incurred for the inmates, defined as follows:

- (1) Medical expenses incurred as a result of providing health care to an inmate as an inpatient (hospitalized);
- (2) Other medical expenses when the total cost exceeds thirty-five dollars (\$35.00) per occurrence or illness as a result of providing health care to an inmate as an outpatient (nonhospitalized); and
- (3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the inmate is incarcerated, provided the inmate was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the Department is obtained by the local facility.

In order to obtain reimbursement for any of the expenses authorized by this section, a local confinement facility shall submit an invoice to the Department within ~~one year~~ 90 days of the date of commitment by the sentencing court."

SECTION 49. If House Bill 669, 2003 Regular Session, becomes law, then G.S. 131E-76(6) and (7), as amended by Section 1.1 of House Bill 669, 2003 Regular Session, reads as rewritten:

"§ 131E-76. Definitions.

As used in this article, unless otherwise specified:

- ...
- (6) "Critical access hospital" means a hospital which has been designated as a critical access hospital by the North Carolina Department of Health and Human Services, Office of ~~Rural Health and Resource Research, Demonstrations and Rural Health Development~~. To be designated as a critical access hospital under this subdivision, the hospital must meet the requirements of federal law for certification as a critical access hospital.
- (7) "Rural hospital network" means an alliance of members that shall include at least one critical access hospital and one other hospital. To qualify as a rural hospital network, the critical access hospital must submit a comprehensive, written memorandum of understanding to the Department of Health and Human ~~Services~~ Services, Office of Research, Demonstrations and Rural Health Development, for the Department's approval. The memorandum of understanding must include provisions for patient referral and transfer, a plan for network-wide emergency services, and a plan for sharing patient information and services between hospital members including medical staff credentialing, risk management, quality assurance, and peer review."

SECTION 50. If House Bill 951, 2003 Regular Session, becomes law, then G.S. 50C-1(5) as enacted by Section 1 of House Bill 951, 2003 Regular Session is repealed.

SECTION 51. If House Bill 1264, 2003 Regular Session, becomes law, then the first paragraph of Section 6.1 of House Bill 1264, 2003 Regular Session, reads as rewritten:

"SECTION 6.1. To ensure that the State's citizens are academically prepared and equipped for current job opportunities and jobs of the future in North Carolina's growing knowledge economy, the Board of Governors of The University of North Carolina, ~~in collaboration with the State Board of Community Colleges, Carolina and the State Board of Community Colleges~~ shall, within 60 days after this act becomes law, contract with a private consulting firm that has experience in higher education to conduct a comprehensive study of the mission and educational program needs for the University System and the Community College System. The Board of Governors and the State Board may enter into contracts with consultants for the purposes authorized in this section without complying with the provisions of Article 3C of Chapter 143 of the General Statutes. The study shall include all of the following:"

SECTION 52. If Section 17.6A of House Bill 1414, 2003 Regular Session, becomes law, then Section 22 of House Bill 281, 2003 Regular Session, is repealed.

SECTION 53. If House Bill 1414, 2003 Regular Session, becomes law, then Section 7.22(a) of House Bill 1414 reads as rewritten:

"HIGH SCHOOL WORKFORCE DEVELOPMENT PROGRAM

SECTION 7.22.(a) Funds are appropriated in this act for a high school workforce development program. The purpose of the program shall be to identify students who may not plan to attend or be adequately prepared to attend a two- or four-year degree program and to provide the assistance those students need to earn an Associate Degree the year after their senior year in high school. The Department of Public Instruction shall work closely with the Education Cabinet and the New Schools Project in administering the program.

These funds shall be used to establish five pilot projects in which a local school administrative unit, two- and four-year colleges and universities, and local employers work together to ensure that high school and community college curricula operate seamlessly and meet the needs of participating employers. Notwithstanding any other law or rule, a local school administrative unit and two- and four-year colleges and universities shall agree upon the minimum age of the students who participate in the pilot projects."

SECTION 54. If House Bill 1414, 2003 Regular Session, becomes law, then Part VII, Public Schools, of House Bill 1414, 2003 Regular Session, is amended by adding a new section to read:

"IMPLEMENT DPI REORGANIZATION

SECTION 7.34. Notwithstanding G.S. 143-23, the State Board of Education may reorganize the Department of Public Instruction and transfer funds within the budget of the Department to the extent necessary to implement the reorganizations outlined in the reorganization study completed by the Office of State Budget and Management."

SECTION 55. If Section 8.17 of House Bill 1414, 2003 Regular Session, becomes law, then a new subsection is added to read:

"SECTION 8.17.(b1) No request for proposals need be issued for any contract under subdivision (a)(2) of this section."

SECTION 56. If House Bill 1414, 2003 Regular Session, becomes law, G.S. 20-147.1, as enacted by Section 30.6 of House Bill 1414, 2003 Regular Session, reads as rewritten:

"§ 20-147.1. Passenger vehicle towing other vehicles to keep right.

Whenever a noncommercial passenger vehicle as defined in G.S. 20-4.01(27)g. is towing another vehicle as defined in G.S. 20-4.01(49), the driver of the towing vehicle shall at all times cause that vehicle to travel on the right half of the highway, ~~or if the highway is divided into two or more lanes in the right-most lane of travel, unless that lane is obstructed or impassable~~ and upon any highway having four or more lanes for moving traffic and providing for two-way movement of traffic, the vehicle shall not be driven in the left-most lane of the right half of the highway except when overtaking and passing another vehicle proceeding in the same direction, when preparing for a left turn, or the right lanes are obstructed or impassable. These towing vehicles shall also comply with all signage for vehicles of three or more axles erected pursuant to G.S. 20-146(d)(3)."

SECTION 57.(a) If House Bill 1414, 2003 Regular Session, becomes law, then G.S. 135-3(8)c. reads as rewritten:

- "c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether

contractual or otherwise, and if such beneficiary earns an amount during the 12-month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars (\$20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S. 135-3(8)c., who has been retired at least six months and has not been employed in any capacity, except as a substitute teacher or a part-time tutor, with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach on a substitute, interim, or permanent basis in a public ~~school~~ school or a charter school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit or a charter school under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of G.S. 115C-325(a)(5a).

Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment."

SECTION 57.(b) If House Bill 1414, 2003 Regular Session, becomes law, then G.S. 115C-325(a)(5a) reads as rewritten:

"(5a) "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least six months, has not been employed in any capacity, other than as a substitute teacher or a part-time tutor, with a local board of education or a charter school for at least six months, immediately preceding the effective date of reemployment, is determined by a local board of education or a charter school to have had satisfactory performance during the last year of employment by a local board of ~~education~~ education or a charter school, and who is employed to teach as provided in G.S. 135-3(8) c. A retired teacher at a school other than a charter school shall be treated the same as a probationary teacher except that (i) a retired teacher is not eligible for career status and (ii) the performance of a retired teacher who had attained career status

prior to retirement shall be evaluated in accordance with a local board of education's policies and procedures applicable to career teachers."

SECTION 57.(c) This section expires June 30, 2005.

SECTION 58. If Senate Bill 916, 2003 Regular Session, becomes law, then G.S. 95-271 as enacted by Section 1 of Senate Bill 916, 2003 Regular Session, reads as rewritten:

"§ 95-271. Scope of Article; other remedies available.

This Article does not expand, diminish, alter, or modify ~~the~~ any duty of any employer to provide a safe workplace for employees and other persons. This Article does not limit the ability of an employer, employee, or victim to pursue any other civil or criminal remedy provided by law. This Article does not apply in circumstances where an employee or representative of employees is engaged in union organizing, union activity, a labor dispute, or any activity or action protected by the National Labor Relations Act, 29 U.S.C. § 151, et seq. Nothing in this Article is intended to change the National Labor Relations Act's preemptive regulation of legally protected activities, nor to change the right of the State and its courts to regulate activities not protected by the National Labor Relations Act."

SECTION 59. If Senate Bill 1083, 2003 Regular Session, becomes law, then Section 11 of Senate Bill 1083, 2003 Regular Session reads as rewritten:

"SECTION 11. ~~This act becomes effective January 1, 2005.~~ Sections 1 through 9 of this act become effective January 1, 2006. Section 10 of this act becomes effective October 1, 2004. Section 11 of this act becomes effective when this act becomes law."

SECTION 60.(a). If Senate Bill 1145, 2003 Regular Session, becomes law then G.S. 153A-155(f1), as enacted in Section 42.(a) of Senate Bill 1145, 2003 Regular Session, reads as rewritten:

"(f1) Use. – The proceeds of a room occupancy tax shall not be used ~~directly or indirectly~~ for development or construction of a hotel or another transient lodging facility."

SECTION 60.(b). If Senate Bill 1145, 2003 Regular Session, becomes law then G.S. 160A-215(f1), as enacted in Section 42.(b) of Senate Bill 1145, 2003 Regular Session, reads as rewritten:

"(f1) Use. – The proceeds of a room occupancy tax shall not be used ~~directly or indirectly~~ for development or construction of a hotel or another transient lodging facility."

SECTION 61. The Department of Transportation shall install highway directional guide signs at limited-access highway terminals for the nonresidential campuses of colleges or universities located in North Carolina, if the nonresidential campus is located within one mile from the limited-access highway terminal and if the college or university is licensed by the Board of Governors of The University of North Carolina, offers both undergraduate and graduate degree programs, and has a minimum of 350 students enrolled at the nonresidential campus. The college or university requesting the sign installment shall pay for all charges related to the construction of the sign.

SECTION 62. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 7:02 p.m. on the 17th day of August, 2004.

S.B. 1118

Session Law 2004-200

AN ACT TO INCREASE THE FEE FOR THE FIRST IN FORESTRY SPECIAL PLATE, TO AUTHORIZE DMV TO ISSUE A RETIRED HIGHWAY PATROL SPECIAL PLATE TO THE SURVIVING SPOUSES OF RETIRED HIGHWAY PATROLMEN AND TO AUTHORIZE DMV TO ISSUE THE FOLLOWING NEW SPECIAL PLATES: DAUGHTERS OF THE AMERICAN REVOLUTION, EL PUEBLO, HOMES4NC, NC 4-H DEVELOPMENT FUND, SPORT FISHING, COMMERCIAL FISHING, AND A HIGH SCHOOL INSIGNIA 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:

...
 (10a) Commercial Fishing. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of commercial fishing in North Carolina. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...
 (11e) Daughters of the American Revolution. – Issuable to the registered owner of a motor vehicle. The plate may bear a phrase and picture appropriate to the organization. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...
 (14a) El Pueblo. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-18.12. The plate shall bear the El Pueblo logo and the words 'El Pueblo'. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...
 (16f) High School Insignia Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a public high school in North Carolina.

...
 (18a) HOMES4NC Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear 'HOMES4NC', the logo of the North Carolina Association of Realtors Housing Opportunity Foundation, and shall be developed in conjunction with that organization. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...
 (28e) North Carolina 4-H Development Fund. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate

may bear a phrase or insignia representing The North Carolina 4-H Development Fund.

...

(36a) ~~Retired Highway Patrol. —Issuable—~~ The plate authorized by this subdivision to an individual who has retired from the North Carolina Highway Patrol. The plate shall bear the phrase "SHP, Retired." The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate. The plate is issuable to one of the following:

a. An individual who has retired from the North Carolina Highway Patrol.

b. The surviving spouse of a person who had a retired highway patrol plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry.

...

(41a) Sport Fishing. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of sport fishing in North Carolina. 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>
Crystal Coast	\$30.00
<u>El Pueblo</u>	\$30.00
Historical Attraction	\$30.00
<u>HOMES4NC</u>	\$30.00
<u>North Carolina 4-H Development Fund</u>	\$30.00
Personalized	\$30.00
State Attraction	\$30.00
Buffalo Soldiers	\$25.00
Collegiate Insignia	\$25.00
Goodness Grows	\$25.00
<u>High School Insignia</u>	\$25.00
Kids First	\$25.00
Olympic Games	\$25.00
NC Agribusiness	\$25.00
NC Coastal Federation	\$25.00
Nurses	\$25.00
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	\$25.00
Special Olympics	\$25.00

Surveyor Plate	\$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
Be Active NC	\$20.00
<u>Daughters of the American Revolution</u>	<u>\$20.00</u>
Ducks Unlimited	\$20.00
(Effective until June 30, 2006)	
Harley Owners' Group	\$20.00
First in Forestry	\$20.00 <u>\$30.00</u>
Litter Prevention	\$20.00
March of Dimes	\$20.00
Omega Psi Phi Fraternity	\$20.00
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
Zeta Phi Beta Sorority	\$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), 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	0
Audubon North Carolina	\$10	\$10	0	0
Be Active NC	\$10	\$10	0	0
Buffalo Soldiers	\$10	\$15	0	0
Crystal Coast	\$10	\$20	0	0
<u>Daughters of the American Revolution</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>	<u>0</u>
Ducks Unlimited	\$10	\$10	0	0
<u>El Pueblo</u>	<u>\$10</u>	<u>\$20</u>	<u>0</u>	<u>0</u>
First in Forestry	\$10	0 <u>\$10</u>	\$10	0

Goodness Grows	\$10	\$15	0	0
(Effective until June 30, 2006)				
Harley Owners' Group	\$10	\$10	0	0
<u>High School Insignia</u>	<u>\$10</u>	<u>\$15</u>	<u>0</u>	<u>0</u>
Historical Attraction	\$10	\$20	0	0
<u>HOMES4NC</u>	<u>\$10</u>	<u>\$20</u>	<u>0</u>	<u>0</u>
In-State Collegiate Insignia	\$10	\$15	0	0
Kids First	\$10	\$15	0	0
Litter Prevention	\$10	\$10	0	0
March of Dimes	\$10	\$10	0	0
NC Agribusiness	\$10	\$15	0	0
NC Coastal Federation	\$10	\$15	0	0
<u>NC 4-H Development Fund</u>	<u>\$10</u>	<u>\$20</u>	<u>0</u>	<u>0</u>
Nurses	\$10	\$15	0	0
Olympic Games	\$10	\$15	0	0
Omega Psi Phi Fraternity	\$10	\$10	0	0
Out-of-state Collegiate Insignia	10	0	\$15	0
Personalized	\$10	0	\$15	\$5
(Effective until June 30, 2006)				
Rocky Mountain Elk Foundation	\$10	\$15	0	0
Save the Sea Turtles	\$10	\$10	0	0
Scenic Rivers	\$10	\$10	0	0
School Technology	\$10	\$10	0	0
Soil and Water Conservation	\$10	\$10	0	0
Special Forces Association	\$10	\$10	0	0
Special Olympics	\$10	\$15	0	0
State Attraction	\$10	\$20	0	0
Support Public Schools	\$10	\$10	0	0
Surveyor Plate	\$10	\$15	0	0
The V Foundation for Cancer Research	\$10	\$15	0	0
University Health Systems of Eastern Carolina	\$10	\$15	0	0
Wildlife Resources	\$10	\$10	0	0
Zeta Phi Beta Sorority	\$10	\$10	0	0
All other Special Plates	\$10	0	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding two new subsections to read:

"(b31) North Carolina 4-H Development Fund. – The Division must receive 300 or more applications for a North Carolina 4-H Development Fund 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 North Carolina 4-H Development Fund plates to The North Carolina 4-H Development Fund, to be used to support county and State 4-H programs and to provide funding for repairs and renovations at North Carolina 4-H camps and conference centers.

(b32) High School Insignia Plate. – The Division must receive 300 or more applications for a high school insignia plate for a public high school in North Carolina before a high school insignia plate may be issued for that school. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account

derived from the sale of high school insignia plates to the Department of Public Instruction to be deposited into the State Aid to Local School Administrative Units account. The Division must also send the Department of Public Instruction information as to the number of plates sold representing a particular high school. The Department of Public Instruction must annually transfer the money in the State Aid to Local School Administrative Units account that is derived from the sale of the high school insignia plates to the high schools which have a high school insignia plate in proportion to the number of high school insignia plates sold representing that school. The high school must use the money for academic enhancement.

(b33) HOMES4NC. – The Division must receive 300 or more applications for the HOMES4NC 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 HOMES4NC plates to the NCAR Housing Opportunity Foundation to promote safe, decent, and affordable housing for all in North Carolina.

(b34) First in Forestry. – The Division must receive 300 or more applications for the First in Forestry plate before the plate may be developed. The Division shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Division of Forest Resources for a State forests and forestry education program and shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Forest Education and Conservation Foundation for their programs.

(b35) El Pueblo. – The Division must receive 300 or more applications for the El Pueblo plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Plate Account derived from the sale of the El Pueblo plates to El Pueblo, Inc., for its Scholarship Fund which provides scholarships for Latino students entering any community college, college, or university in North Carolina.

(b36) Daughters of the American Revolution. – The Division must receive 300 or more applications for a Daughters of the American Revolution 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 Daughters of the American Revolution plates to the North Carolina Daughters of the American Revolution License Plate Trust Fund located in Wilmington, North Carolina, to be used to carry out the objectives of the National Society Daughters of the American Revolution including the protection of historical spots and the erection of monuments, the encouragement and support of historical research and educational endeavors, the preservation of historical documents and relics, and the promotion of all patriotic celebrations."

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

In the General Assembly read three times and ratified this the 17th day of July, 2004.

Became law upon approval of the Governor at 7:15 p.m. on the 17th day of August, 2004.

AN ACT AUTHORIZING THE ALARM SYSTEMS LICENSING BOARD TO INCREASE CERTAIN FEES AND ESTABLISH A NEW FEE UNDER THE ALARM SYSTEMS LICENSING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74D-7(e) reads as rewritten:

"(e) The Board may charge fees as follows:

- (1) A nonrefundable initial license application fee in an amount not to exceed one hundred fifty dollars (\$150.00).
- (2) A new or renewal license fee in an amount not to exceed ~~three hundred fifty dollars (\$350.00)~~ five hundred dollars (\$500.00).
- (3) A late license renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars (\$100.00), if the license has not been renewed on or before the expiration date of the license.
- (4) A registration fee in an amount not to exceed ~~twenty dollars (\$20.00)~~ fifty dollars (\$50.00) plus any fees charged to the board for background checks by the State Bureau of Investigation.
- (5) A fee for reregistration of an employee who changes employment to another licensee, not to exceed ten dollars (\$10.00).
- (6) A branch office certificate fee not to exceed one hundred fifty dollars (\$150.00).
- (7) A fee not to exceed fifty dollars (\$50.00) for each reconsideration of a license or registration permit that has been filed or returned to the applicant for correctable errors.

All fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering this Chapter."

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

In the General Assembly read three times and ratified this the 16th day of July, 2004.

Became law upon approval of the Governor at 7:25 p.m. on the 17th day of August, 2004.

AN ACT AUTHORIZING THE NORTH CAROLINA CEMETERY COMMISSION TO INCREASE CERTAIN FEES, MAKING CLARIFYING CHANGES UNDER THE NORTH CAROLINA CEMETERY ACT, AND MODIFYING THE FORMULA USED TO DETERMINE THE ENTERPRISE TIER DESIGNATION OF A COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 65-54 reads as rewritten:

"§ 65-54. **Annual budget of Commission; collection of funds.**

The Commission shall prepare an annual budget and shall collect the sums of money required for this budget from yearly fees and from any other sources provided in this Article. On or before July 1 of each year, each licensed cemetery shall pay a license fee

to be set by the Commission in an amount not to exceed ~~three hundred dollars (\$300.00)~~six hundred dollars (\$600.00). In addition, each licensed cemetery shall pay to the Commission an inspection fee for each grave space, niche, or mausoleum crypt ~~sold when the certificate of interment right is issued~~ and shall pay a fee for each vault, ~~niche,~~ belowground crypt, ~~mausoleum crypt,~~ memorial, or opening and closing of a grave space that is included in a preneed cemetery contract. The inspection fee for each grave space, niche, or mausoleum crypt is payable when the ~~item is sold~~certificate of interment right is issued and may not exceed ~~two dollars (\$2.00)~~four dollars (\$4.00). The fee for each of the listed items that are included in a preneed cemetery contract is payable when the contract is made and may not exceed ~~five dollars (\$5.00)~~ten dollars (\$10.00)."

SECTION 2. G.S. 65-55(c) reads as rewritten:

"(c) Upon receipt of the application and filing fee of ~~eight hundred dollars (\$800.00)~~to be set by the Commission in an amount not to exceed one thousand six hundred dollars (\$1,600), the Commission shall cause an investigation to be made to establish the following criteria for approval of the application:

- (1) The creation of a legal entity to conduct cemetery business, and its proposed financial structure.
- (2) A perpetual care trust fund agreement, with an initial deposit of not less than fifty thousand dollars (\$50,000) and with a bank cashier's check or certified check attached for the amount made payable to the trustee. The trust fund agreement must be executed by the applicant, accepted by the trustee, and conditioned only upon approval of the application.
- (3) A plat of the land to be used for the cemetery, showing the location of the cemetery and the access roads to the cemetery.
- (4) Designation by the legal entity wishing to establish a cemetery of a general manager. The general manager must be a person of good moral character and have at least one year's experience in cemeteries.
- (5) Development plans sufficient to ensure the community that the cemetery will provide adequate cemetery services and that the property is suitable for use as a cemetery."

SECTION 3. G.S. 65-57(c) reads as rewritten:

"(c) The application shall be accompanied by an initial filing fee of ~~four hundred dollars (\$400.00)~~to be set by the Commission in an amount not to exceed one thousand dollars (\$1,000) for cemetery sales organization and cemetery management organization and an initial filing fee of ~~two hundred dollars (\$200.00)~~to be set by the Commission in an amount not to exceed five hundred dollars (\$500.00) for a cemetery broker. If ninety percent (90%) or more of the applicant is owned by an existing cemetery company operating under the North Carolina Cemetery Act, then the initial filing fee shall be one half of the sums set out herein. On or before July 1 of each year, each licensed cemetery sales organization, cemetery management organization, or cemetery broker shall pay a license renewal fee of ~~one hundred dollars (\$100.00)~~to be set by the Commission in an amount not to exceed six hundred dollars (\$600.00) per year."

SECTION 4. G.S. 65-58(c) reads as rewritten:

"(c) The application shall be accompanied by a filing fee of ~~fifteen dollars (\$15.00)~~to be set by the Commission in an amount not to exceed one hundred dollars (\$100.00) to cover the expenses of processing and investigation. After processing and ~~investigation~~investigation, the Commission shall grant, or refuse to grant, the license

applied for. The ~~annual~~ license fee for a two-year term shall be set by the Commission but shall not exceed ~~ten dollars (\$10.00)~~ one hundred dollars (\$100.00)."

SECTION 5. G.S. 65-59 reads as rewritten:

"§ 65-59. Application for a change of control; filing fee.

A person who proposes to acquire control of an existing cemetery company, whether by purchasing the capital stock of the company, purchasing an owner's interest in the company, or otherwise acting to effectively change the control of the company, shall first make application on a form supplied by the Commission for a certificate of approval of the proposed change of control. The application shall contain the name and address of each proposed new owner. The Commission shall issue a certificate of approval only after it determines that the proposed new owners are qualified by character, experience, and financial responsibility to control and operate the cemetery company in a legal and proper manner, and that the interest of the public generally will not be jeopardized by the proposed change in control. An application for approval of a change of control must be completed and accompanied by a filing fee ~~of two hundred dollars (\$200.00)~~ to be set by the Commission in an amount not to exceed one thousand six hundred dollars (\$1,600)."

SECTION 6. G.S. 65-63 reads as rewritten:

"§ 65-63. Requirements for perpetual care fund.

A cemetery company may not cause or permit advertising of a perpetual care fund in connection with the sale or offer for sale of its property unless the amount deposited in the fund is at least ~~forty dollars (\$40.00)~~ one hundred dollars (\$100.00) or ten percent (10%) of the retail sale price, whichever is greater, per grave space, niche, or mausoleum crypt sold. Nothing may prohibit an individual cemetery from requiring a perpetual care deposit for grave memorial markers to be deposited in the perpetual care fund so long as the same assessment is uniformly applied to all grave memorial markers installed in the cemetery."

SECTION 7. G.S. 65-64(a) reads as rewritten:

"(a) Deposits to the care and maintenance trust fund must be made by the cemetery company holding title to the subject cemetery lands on or before the last day of the calendar month following the calendar month in which final payment is received as provided herein; however the entire amount required to be deposited into the fund shall be paid within four years from the date of any contract requiring such payment regardless of whether all amounts have been received by the cemetery company. If the cemetery company fails to make timely deposit, the Commission may levy and collect a ~~penalty~~ late filing fee of one dollar (\$1.00) per day for each day the deposit is delinquent on each grave space, niche or mausoleum crypt sold. The care and maintenance trust fund shall be invested and reinvested by the trustee in the same manner as provided by law for the investment of other trust funds by the clerk of the superior court except that such investments may be made through means of a common trust fund as described in G.S. 36A-90; provided, further, that cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e) may be invested and reinvested in accordance with G.S. 36A-2. The fees and other expenses of the trust fund shall be paid by the trustee from the net income thereof and may not be paid from the corpus. To the extent that the said net income is not sufficient to pay such fees and other expenses, the same shall be paid by the cemetery company."

SECTION 8. G.S. 65-64(b) reads as rewritten:

"(b) When a municipal, church-owned or fraternal cemetery converts to a private cemetery as defined in G.S. 65-48, then said cemetery shall establish and maintain a

care and maintenance trust fund pursuant to this section; provided, however, the initial deposit for establishment of this trust fund shall be an amount equal to ~~ten dollars (\$10.00)~~ five dollars (\$50.00) per space for all spaces either previously sold or contracted for sale in said cemetery at the time of conversion or ~~twenty-five thousand dollars (\$25,000)~~ five thousand dollars (\$50,000), whichever sum is greater."

SECTION 9. G.S. 65-66(l) reads as rewritten:

"(l) If any report is not received within the time stipulated by the Commission or herein, the Commission may levy and collect a ~~penalty~~ late filing fee of twenty-five dollars (\$25.00) per ~~day for each day~~ month for each month of delinquency."

SECTION 10. G.S. 105-129.3(b) reads as rewritten:

"(b) Annual Designation. – Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

- (1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding ~~three years~~ 12 months.
- (2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding ~~three years~~ 12 months.
- (3) The county's rank in a ranking of counties by percentage growth in population from highest to ~~lowest~~ lowest, for the preceding 12 months.

The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and publish this information. An enterprise tier designation is effective only for the calendar year following the designation."

SECTION 11. Section 10 of this act is effective when it becomes law and applies to designations made 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 14th day of July, 2004.

Became law upon approval of the Governor at 7:30 p.m. on the 17th day of August, 2004.

H.B. 281

Session Law 2004-203

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. G.S. 14-402(c)(3) reads as rewritten:

"(c) The following definitions apply in this section:

...

- (3) Crossbow. – A mechanical device consisting of, but not limited to, strings, cables, and prods transversely mounted on either a shoulder or hand-held stock. This ~~device~~ device is mechanically held at full or partial draw and released by a trigger or similar mechanism ~~which~~ that is incorporated into a stock or handle. When operated, the crossbow discharges a projectile known as a bolt.

...."

SECTION 2. G.S. 20-7(b1) reads as rewritten:

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

The application form shall request all of the following information, and it shall contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93 579:

- (1) The applicant's full name.
- (2) The applicant's mailing address and residence address.
- (3) A physical description of the applicant, including the applicant's sex, height, eye color, and hair color.
- (4) The applicant's date of birth.
- (5) The applicant's valid social security number.
- (6) The applicant's signature.

If an applicant does not have a valid social security number and is ineligible to obtain one, the applicant shall swear to or affirm that fact under penalty of perjury. In such case, the applicant may provide a valid Individual Taxpayer Identification Number issued by the Internal Revenue Service to that person.

The Division shall not issue an identification card, learners permit, or drivers license to an applicant who fails to provide either the applicant's valid social security number or the applicant's valid Individual Taxpayer Identification Number."

SECTION 3. G.S. 49-13.1 is repealed.

SECTION 4. G.S. 55B-2(6), as amended by Section 3 of S.L. 2003-117, 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"; 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 5.(a) G.S. 58-36-10(3) reads as rewritten:

"§ 58-36-10. Method of rate making; factors considered.

The following standards shall apply to the making and use of rates:

- ...
- (3) In the case of property insurance rates under this Article, consideration may be given to the experience of property insurance business during the most recent five-year period for which that experience is available. In the case of property insurance rates under this Article, consideration shall be given to the insurance public protection classifications of fire districts established by the Commissioner. The Commissioner shall establish and modify from time to time insurance public protection districts for all rural areas of the State and for cities with populations of 100,000 or fewer, according to the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer. In establishing and modifying these districts, the Commissioner shall use standards at least equivalent to those used by the Insurance Services Office, Inc., or any successor organization. The standards developed by the Commissioner are subject to Article 2A of Chapter 150B of the General Statutes. The insurance public protection classifications established by the Commissioner issued pursuant to the provisions of this Article shall be subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions stated in G.S. 58-2-75(a) do not apply.

...."

SECTION 5.(b) G.S. 58-40-25(4) reads as rewritten:

"§ 58-40-25. Rating methods.

In determining whether rates comply with the standards under G.S. 58-40-20, the following criteria shall be applied:

- ...
- (4) In the case of property insurance rates under this Article, consideration shall be given to the insurance public protection classifications of fire districts established by the Commissioner. The Commissioner shall establish and modify from time to time insurance public protection districts for all rural areas of the State and for cities with populations of 100,000 or fewer, according to the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer. In establishing and modifying these districts, the Commissioner shall use standards at least equivalent to those used by the Insurance Services Office, Inc., or any successor organization. The standards developed by the Commissioner are subject to Article 2A of Chapter 150B of the General Statutes. The insurance public protection classifications established by the Commissioner issued pursuant to the provisions of

this Article shall be subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions stated in G.S. 58-2-75(a) do not apply."

SECTION 5.(c) G.S. 58-87-1(b) reads as rewritten:

"(b) A fire department is eligible for a grant under this section if it meets all of the following conditions:

- (1) It serves a response area of 6,000 or less in population.
- (2) It consists entirely of volunteer members, with the exception that the unit may have paid members to fill the equivalent of three full-time paid positions.
- (3) It has been certified by the Department of Insurance.

In making the population determination under subdivision (1) of this subsection, the Department shall use the most recent annual population estimates certified by the State ~~Planning-Budget~~ Officer."

SECTION 5.(d) G.S. 105-113.82(e) reads as rewritten:

"(e) Population Estimates. – To determine the population of a city or county for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State ~~Planning-Budget~~ Officer."

SECTION 5.(e) G.S. 105-129.3(b1) reads as rewritten:

"(b1) Data. – In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State ~~Planning-Budget~~ Officer."

SECTION 5.(f) G.S. 105-129.3A(a) reads as rewritten:

"(a) Development Zone Defined. – A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

- (1) Every census tract and census block group in the zone is located in whole or in part within the primary corporate limits of a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State ~~Planning-Budget~~ Officer.
- (2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State ~~Planning-Budget~~ Officer.
- (3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.
- (4) Every census tract and census block group in the zone meets at least one of the following conditions:
 - a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.
 - b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.
- (5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce."

SECTION 5.(g) G.S. 105-164.44F(b) reads as rewritten:

"(b) Share of Cities Incorporated on or After January 1, 2001. – The share of a city incorporated on or after January 1, 2001, is its per capita share of the amount to be distributed to all cities incorporated on or after this date. This amount is the proportion of the total to be distributed under this section that is the same as the proportion of the population of cities incorporated on or after January 1, 2001, compared to the population of all cities. In making the distribution under this subsection, the Secretary must use the most recent annual population estimates certified to the Secretary by the State ~~Planning~~Budget Officer."

SECTION 5.(h) G.S. 105-187.19(b) reads as rewritten:

"(b) Each quarter, the Secretary shall credit five percent (5%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty-seven percent (27%) of the net tax proceeds to the Scrap Tire Disposal Account. The Secretary shall distribute the remaining sixty-eight percent (68%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State ~~Planning~~Budget Officer."

SECTION 5.(i) G.S. 105-187.24 reads as rewritten:

"§ 105-187.24. Use of tax proceeds.

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed two hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining seventy-two percent (72%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State ~~Planning~~Budget Officer. The Department shall not distribute the tax proceeds to a county when notified not to do so by the Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not entitled to a distribution, the proceeds allocated for that county will be credited to the White Goods Management Account.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

SECTION 5.(j) Effective July 1, 2003, G.S. 105-472(b) reads as rewritten:

"(b) Distribution Between Counties and Cities. – The Secretary shall divide the amount allocated to each taxing county among the county and its municipalities in accordance with the method determined by the county. The board of county commissioners shall, by resolution, choose one of the following methods of distribution:

- (1) Per Capita Method. – The net proceeds of the tax collected in a taxing county shall be distributed to that county and to the municipalities in the county on a per capita basis according to the total population of the taxing county, plus the total population of the municipalities in the county. In the case of a municipality located in more than one county, only that part of its population living in the taxing county is considered

its "total population". In order to make the distribution, the Secretary shall determine a per capita figure by dividing the amount allocated to each taxing county by the total population of that county plus the total population of all municipalities in the county. The Secretary shall then multiply this per capita figure by the population of the taxing county and by the population of each municipality in the county; each respective product shall be the amount to be distributed to the county and to each municipality in the county. To determine the population of each county and each municipality, the Secretary shall use the most recent annual estimate of population certified by the State ~~Planning~~ Budget Officer.

- (2) Ad Valorem Method. – The net proceeds of the tax collected in a taxing county shall be distributed to that county and the municipalities in the county in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing county during the fiscal year next preceding the distribution. For purposes of this section, the amount of the ad valorem taxes levied by a county or municipality includes ad valorem taxes levied by the county or municipality in behalf of a taxing district and collected by the county or municipality. In addition, the amount of taxes levied by a county includes ad valorem taxes levied by a merged school administrative unit described in G.S. 115C-513 in the part of the unit located in the county. In computing the amount of tax proceeds to be distributed to each county and municipality, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. Each county and municipality receiving a distribution of the proceeds of the tax levied under this Article shall in turn immediately share the proceeds with each district in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total levy of the county or municipality. Any county or municipality that fails to provide the Department of Revenue with information concerning ad valorem taxes levied by it adequate to permit a timely determination of its appropriate share of tax proceeds collected under this Article may be excluded by the Secretary from each monthly distribution with respect to which the information was not provided in a timely manner, and those tax proceeds shall then be distributed only to the remaining counties or municipalities, as appropriate. For the purpose of computing the distribution of the tax under this subsection to any county and the municipalities located in the county for any month with respect to which the property valuation of a public service company is the subject of an appeal and the Department of Revenue is restrained by law from certifying the valuation to the county and the municipalities in the county, the Department shall use the last property valuation of the public service company that has been certified.

The board of county commissioners in each taxing county shall, by resolution adopted during the month of April of each year, determine which of the two foregoing methods of distribution shall be in effect in the county during the next succeeding fiscal year. In order for the resolution to be effective, a certified copy of it must be delivered to the Secretary in Raleigh within 15 calendar days after its adoption. If the board fails

to adopt a resolution choosing a method of distribution not then in effect in the county, or if a certified copy of the resolution is not timely delivered to the Secretary, the method of distribution then in effect in the county shall continue in effect for the following fiscal year. The method of distribution in effect on the first of July of each fiscal year shall apply to every distribution made during that fiscal year."

SECTION 5.(k) G.S. 136-202(c) reads as rewritten:

"(c) The Department, the metropolitan planning organizations, and the Department of Environment and Natural Resources shall jointly evaluate and adjust the regions defined in each regional travel demand model at least once every five years and no later than October 1 of the year following each decennial federal census. The evaluation and adjustment shall be based on decennial census data and the most recent populations estimates certified by the State ~~Planning-Budget~~ Officer. The adjustment of these boundaries shall reflect current and projected patterns of population, employment, travel, congestion, commuting, and public transportation use and the effects of these patterns on air quality."

SECTION 5.(l) G.S. 143-215.107A(d) reads as rewritten:

"(d) Additional Counties. – The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions inspections be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State ~~Planning-Budget~~ Officer. The Commission may not require that motor vehicle emissions inspections be performed in any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

SECTION 5.(m) G.S. 160A-536(c) reads as rewritten:

"(c) Urban Area Revitalization Defined. – As used in this section, the term "urban area revitalization projects" includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term "urban area" means an area that (i) is located within a city whose population exceeds 150,000 according to the most recent annual population statistics certified by the State ~~Planning-Budget~~ Officer and (ii) meets one or more of the following conditions:

- (1) It is the central business district of the city.

- (2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.
- (3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.
- (4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities."

SECTION 5.(n) G.S. 162A-6(a)(14d) reads as rewritten:

"(a) Each authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority is authorized and empowered:

- ...
- (14d) To require the owners of developed property on which there are situated one or more residential dwelling units or commercial establishments located within the jurisdiction of the authority and within a reasonable distance of any waterline or sewer collection line owned, leased as lessee, or operated by the authority to connect the property with the waterline, sewer connection line, or both and fix charges for the connections. The power granted by this subdivision may be exercised by an authority only to the extent that the service, whether water, sewer, or a combination thereof, to be provided by the authority is not then being provided to the improved property by any other political subdivision or by a public utility regulated by the North Carolina Utilities Commission pursuant to Chapter 62 of the General Statutes. In the case of improved property that would qualify for the issuance of a building permit for the construction of one or more residential dwelling units or commercial establishments and where the authority has installed water or sewer lines or a combination thereof directly available to the property, the authority may require payment of a periodic availability charge, not to exceed the minimum periodic service charge for properties that are connected. This subdivision applies only to a water and sewer authority whose membership includes part or all of a county that has a population of at least 40,000 according to the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer.

...."

SECTION 6. G.S. 78A-17 reads as rewritten:

"§ 78A-17. Exempt transactions.

Except as otherwise provided in this Chapter, the following transactions are exempted from G.S. 78A-24 and G.S. 78A-49(d):

- (1) Any isolated nonissuer transaction, whether effected through a dealer or ~~not~~ not.
- (2) Any nonissuer distribution other than by a controlling person of an outstanding security if

- a. A recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or
 - b. A registered dealer files with the Administrator such information relating to the issuer as the Administrator may by rule or order require, or
 - c. The security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the ~~security;~~security.
- (3) Any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy; but the Administrator may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the dealer for a specified ~~period;~~period.
 - (4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among ~~underwriters;~~underwriters.
 - (5) Any transaction in a bond or other evidence of indebtedness secured by a lien or security interest in real or personal property, or by an agreement for the sale of real estate or chattels, if the entire security interest or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a ~~unit;~~unit.
 - (6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or ~~conservator;~~conservator.
 - (7) Any transaction executed by a person holding a bona fide security interest without any purpose of evading this ~~Chapter;~~Chapter.
 - (8) Any offer or sale to an entity which has a net worth in excess of one million dollars (\$1,000,000) as determined by generally accepted accounting principles, bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary ~~capacity;~~capacity.
 - (9) Any transaction pursuant to an offer directed by the offeror to not more than 25 persons, other than those persons designated in subdivision (8), in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if the seller reasonably believes that all the buyers in this State are purchasing for investment. The Administrator may by rule or order withdraw, amend, or further condition this exemption for any security or security transaction. There is established a fee of one hundred fifty dollars (\$150.00) to recover costs for any filing required.
 - (10) Any offer or sale of a preorganizational certificate or subscription if:
 - (i) no commission or other remuneration is paid or given directly or

- indirectly for soliciting any prospective subscriber; (ii) no public advertising or solicitation is used in connection with the offer or sale; (iii) the number of subscribers does not exceed 10 and the number of offerees does not exceed 25; and (iv) no payment is made by any subscriber.
- (11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if (i) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this State, or (ii) the issuer first files a notice specifying the terms of the offer and the Administrator does not by order disallow the exemption within the next 10 full business ~~days;~~days.
- (12) Any offer (but not a sale) of a security for which registration statements have been filed under both this Chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either ~~act;~~act.
- (13) Any offer or sale by a domestic entity of its own securities if (i) the entity was organized for the purpose of promoting community, agricultural or industrial development of the area in which the principal office is located, (ii) the offer or sale has been approved by resolution of the county commissioners of the county in which its principal office is located, and, if located in a municipality or within two miles of the boundaries thereof, by resolution of the governing body of such municipality, (iii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State, and (iv) the ~~corporation~~entity is both organized and operated principally to promote some community, industrial, or agricultural development that confers a public benefit rather than organized and operated principally to generate a pecuniary ~~profit;~~profit.
- (14) Any offer, sale or issuance of securities pursuant to an employees' stock or equity purchase, option, savings, pension, profit-sharing, or other similar benefit plan that is exempt under the provisions of ~~G.S. 78A-16(11);~~G.S. 78A-16(11).

...."

SECTION 7. G.S. 90-210.69(c) reads as rewritten:

"(c) In accordance with the provisions of Chapter 150B of the General Statutes, if the Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty of one or more of the following, the Board may refuse to issue or renew a license or may suspend or revoke a license or place the holder thereof on probation upon conditions set by the Board, with revocation upon failure to comply with the conditions:

- (1) Offering to engage or engaging in activities for which a license is required under this Article but without having obtained such a license.

- (2) Aiding or abetting an unlicensed person, firm, partnership, association, corporation or other entity to offer to engage or engage in such activities.
- (3) A crime involving fraud or moral turpitude by conviction thereof.
- (4) Fraud or misrepresentation in obtaining or receiving a license or in preneed funeral planning.
- (5) False or misleading advertising.
- (6) Violating or cooperating with others to violate any provision of this Article, the rules and regulations of the Board, ~~adopted~~—or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

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). 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 such probation."

SECTION 8. G.S. 96-4(t)(2) reads as rewritten:

"(t) Confidentiality of Records, Reports, and Information Obtained from Claimants, Employers, and Units of Government.

...

- (2) Job Service Information. – (i) Except as hereinafter otherwise provided it is unlawful for any person to disclose any information obtained by the North Carolina State Employment Service Division from workers, employers, applicants, or other persons or groups of persons in the course of administering the State Public Employment Service Program. Provided, however, that if all interested parties waive in writing the right to hold such information confidential, the information may be disclosed and used but only for those purposes that the parties and the Commission have agreed upon in writing. (ii) The Employment Service Division shall make public, through the newspapers and any other suitable media, information as to job openings and available applicants for the purpose of supplying the demand for workers and employment. (iii) The Labor Market Information Division shall collect, collate, and publish statistical and other information relating to the work under the Commission's jurisdiction; investigate economic developments, and the extent and causes of unemployment and its remedies with the view of preparing for the information of the General Assembly such facts as in the Commission's opinion may make further legislation desirable. (iv) Except as provided by Commission regulation, any information published pursuant to this ~~subsection~~ ~~(H)~~ subdivision shall not be published in any manner revealing the identity of the applicant or the employing unit.

...."

SECTION 9. G.S. 110-136.13(a) reads as rewritten:

"(a) For purposes of this section, G.S. 110-136.11, 110-136.12, and ~~110-14,~~ 110-136.14, the term "employer" means employer as is defined at 29 U.S.C. § 203(d) in the Fair Labor Standards Act."

SECTION 10. G.S. 143-129.8(b) reads as rewritten:

"(b) Contracts for information technology may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

- (1) Notice of the request for proposals shall be given in accordance with ~~G.S. 143-129(a)~~-G.S. 143-129(b).
- (2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals."

SECTION 11. G.S. 147-69 reads as rewritten:**"§ 147-69. Deposits of State funds in banks and savings and loan associations regulated.**

Banks and savings and loan associations having State deposits shall furnish to the Auditor of the State, upon ~~his~~the Auditor's request, a statement of the moneys which have been received and paid by them on account of the treasury. The Treasurer shall keep in ~~his~~the Treasurer's office a full account of all moneys deposited in and drawn from all banks and savings and loan associations in which ~~he~~the Treasurer may deposit or cause to be deposited any of the public funds, and ~~such~~these accounts shall be open to the inspection of the Auditor. The Treasurer shall sign all checks, and no depository bank or savings and loan association shall be authorized to pay checks not bearing ~~his~~the Treasurer's official signature. The Treasurer is authorized to use a facsimile signature machine or device in affixing ~~his~~the Treasurer's signature to warrants, checks or any other instrument ~~he~~the Treasurer is required by law to sign. The Commissioner of ~~Banks and Banks,~~ the bank examiners, and ~~the Commissioner of Banks and~~ the savings and loan examiners, when so required by the State Treasurer, shall keep the State Treasurer fully informed at all times as to the condition of all ~~such~~these depository banks and savings and loan associations, so as to fully protect the State from loss. The State Treasurer shall, before making deposits in any bank or savings and loan association, require ample security from the bank or savings and loan association for ~~such deposit~~these deposits."

SECTION 12.(a) G.S. 163-278.39B is recodified as G.S. 163-278.38Z under Part 1A of Article 22A of Chapter 163 of the General Statutes, so that the recodified section appears as the first section in Part 1A.

SECTION 12.(b) G.S. 163-278.6 reads as rewritten:**"§ 163-278.6. Definitions.**

When used in this Article:

- ...
- (2) The term "broadcasting station" means any commercial radio or television station or community antenna radio or television station. Special definitions of 'radio' and 'television' that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.
- ...
- (4) The term "candidate" means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition requesting to be a candidate, or has been certified as a nominee of a political party for a vacancy, has otherwise qualified as a candidate in a manner authorized by law, or has received funds or made payments or has given the consent for anyone else to receive funds or transfer anything of value for the purpose of exploring

or bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value. Status as a candidate for the purpose of this Article continues if the individual is receiving contributions to repay loans or cover a deficit or is making expenditures to satisfy obligations from an election already held. Special definitions of 'candidate' and 'candidate campaign committee' that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

- (5) The term "communications media" or "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, newspaper inserts, and any person or individual whose business is polling public opinion, analyzing or predicting voter behavior or voter preferences. Special definitions of 'print media,' 'radio,' and 'television' that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

- ...
- (14) The term "political committee" means a combination of two or more individuals, such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:

- a. Is controlled by a candidate;
- b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;
- c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or
- d. Has as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates.

Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

An entity is rebuttably presumed to have as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates if it contributes or expends or both contributes and expends during an election cycle more than three thousand dollars (\$3,000). The presumption may be rebutted by showing that the contributions and expenditures giving rise to the presumption were not a major part of activities of the organization during the election cycle. Contributions to referendum committees and expenditures to support or oppose ballot issues shall not be facts considered to give rise to the presumption or otherwise be used in determining whether an entity is a political committee.

If the entity qualifies as a "political committee" under sub-subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or liabilities. A political committee ceases to exist

when it winds up its operations, disposes of its assets, and files its final report.

Special definitions of 'political action committee' and 'candidate campaign committee' that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

- (15) The term "political party" means any political party organized or operating in this State, whether or not that party is recognized under the provisions of G.S. 163-96. A special definition of 'political party organization' that applies only in Part 1A of this Article is set forth in G.S. 163-278.38Z.

...."

SECTION 13.(a) Section 1 of S.L. 2001-37 is repealed.

SECTION 13.(b) S.L. 2001-37 is amended by adding a new section to

read:

"**SECTION 1.1.** G.S. 160A-58.1(b)(5) does not apply to the Cities of Marion, Oxford, and Rockingham and the Towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, and Waynesville."

SECTION 13.(c) G.S. 160A-58.1(b)(5), as amended by S.L. 2004-57 and S.L. 2004-99, reads as rewritten:

- "(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, Gastonia, Hickory, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Bladenboro, Calabash, Catawba, Creswell, Dallas, Fuquay-Varina, Garner, Godwin, Holly Ridge, Holly Springs, Kenly, Knightdale, Leland, Louisburg, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Ranlo, Rolesville, Rutherfordton, Swansboro, Troy, Wallace, Warsaw, Waynesville, Wendell, and Zebulon."

SECTION 13.(d) G.S. 160A-58.1(b1) is repealed.

PART II. OTHER CHANGES

SECTION 14. G.S. 1-44.2(b) reads as rewritten:

"(b) ~~Persons claiming ownership contrary to the presumption established in this section shall have a period of one year from the date of enactment of this statute or the abandonment of such easement, whichever later occurs, in which to bring any action to establish their ownership.~~ The presumption established by this section is rebuttable by showing that a party has good and valid title to the land."

SECTION 15.(a) G.S. 1-47(1) reads as rewritten:

"§ 1-47. Ten years.

Within ten years an action –

- (1) Upon a judgment or decree of any court of the United States, or of any state or territory thereof, from the date of its ~~rendition~~ entry. No such

action may be brought more than once, or have the effect to continue the lien of the original judgment.

...."

SECTION 15.(b) G.S. 1-52(8) reads as rewritten:

"§ 1-52. **Three years.**

Within three years an action –

...

- (8) For fees due to a clerk, sheriff or other officer, by the judgment of a court; within three years from the ~~rendition~~ entry of the judgment, or the issuing of the last execution thereon.

...."

SECTION 16. G.S. 7A-16 reads as rewritten:

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

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

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

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

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

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

On or after December 15, 2000, the Governor shall appoint three additional judges to increase the number of judges to 15. ~~Each judgeship shall not become effective until the temporary appointment is made, and each appointee shall serve from the date of qualification until January 1, 2005. Those judges' successors shall be elected in the 2004 general election and shall take office on January 1, 2005, to serve terms expiring December 31, 2012.~~

The Court of Appeals shall sit in panels of three judges each. The Chief Judge insofar as practicable shall assign the members to panels in such fashion that each member sits a substantially equal number of times with each other member. He shall

preside over the panel of which he is a member, and shall designate the presiding judge of the other panel or panels.

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

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

SECTION 17. G.S. 7B-808(b) reads as rewritten:

"(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."

SECTION 18. The catch line of G.S. 8-53.5 reads as rewritten:

"§ 8-53.5. Communications between licensed marital and family therapist and client(s)."

SECTION 19.(a) 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 defendant is 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.

(1a) "Same school" means a school at which (i) the student is enrolled or is present for a school-sponsored or school-related activity and (ii) the school personnel is employed, volunteers, or is present for a school-sponsored or school-related activity.

- (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 19.(b) This section becomes effective December 1, 2004, and applies to offenses committed on or after that date.

SECTION 20.(a) G.S. 14-298 reads as rewritten:

"§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.~~ Seizure of illegal gaming items.

(a) ~~All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath~~Any law enforcement officer may seize that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, that is in the possession or use of any person within the limits of their jurisdiction, jurisdiction when probable cause exists as to the unlawful possession or use to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction.

(b) Any law enforcement agency in possession of an item seized pursuant to subsection (a) of this section shall retain the item pending a disposition order from a district or superior court judge.

(c) At the conclusion of any criminal proceeding regarding an item seized, upon application by the law enforcement agency, district attorney, or owner of the seized item, and after notice and opportunity to be heard by all parties, if the court finds that either of the following occurred or existed at the time the item was seized, the court shall enter an order releasing the item to the law enforcement agency to be destroyed or used for training purposes:

- (1) The item was unlawfully possessed.
- (2) The item was being unlawfully used with the knowledge of the owner of the item.

If the court does not find that either condition occurred or existed at the time the item was seized, the item shall be ordered released to its owner upon satisfactory proof of ownership."

SECTION 20.(b) This section becomes effective October 1, 2004. If Section 3 of Senate Bill 6, 2003 Regular Session, becomes law, this section is repealed.

SECTION 21. G.S. 14-401.5 is repealed.

SECTION 22. G.S. 15-190 reads as rewritten:

"§ 15-190. Person or persons to be designated by warden to execute sentence; supervision of execution; who shall be present.

Some guard or guards or other reliable person or persons to be named and designated by the warden from time to time shall cause the person, convict or felon against whom the death sentence has been so pronounced to be executed as provided by

this Article and all amendments thereto. The execution shall be under the general supervision and control of the warden of the penitentiary, who shall from time to time, in writing, name and designate the guard or guards or other reliable person or persons who shall cause the person, convict or felon against whom the death sentence has been pronounced to be executed as provided by this Article and all amendments thereto. At such execution there shall be present the warden or deputy warden or some person designated by the warden in the warden's place, and the surgeon or physician of the penitentiary. Four respectable citizens, two members of the victim's family, the counsel and any relatives of such person, convict or felon and a minister or member of the clergy or religious leader of the person's choosing may be present if they so desire. The names of persons designated to carry out the execution shall be confidential and exempted under Chapter 132 of the General Statutes and are not subject to discovery or introduction as evidence in any proceeding. The Senior Resident Superior Court Judge for Wake County may compel disclosure of names made confidential by this section after making findings that support a conclusion that disclosure is necessary to a proper administration of justice."

SECTION 23. G.S. 18B-101(7a) reads as rewritten:

"§ 18B-101. Definitions.

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

- ...
- (7a) "Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:
- a. Is on the national register of historic ~~places~~places or located within a State historic district.
 - b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a designated North Carolina scenic byway as defined in G.S. 136-18(31).
 - c. Is located within 15 miles of a national scenic highway.
 - d. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in two or more cities in the county.

...."

SECTION 24. 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.~~

An election may be called on any of the propositions listed in G.S. 18B-602(a), (d), and (h) in any township located within 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 25.(a) G.S. 18B-900(a) reads as rewritten:

"(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person shall:

- ...
- (6) ~~Not have had an alcoholic beverage permit revoked within three years-~~
years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1)."

SECTION 25.(b) G.S. 18B-903(b1) reads as rewritten:

"(b1) Registration. – Each person holding a malt beverage, fortified wine, or unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through G.S. 18B-902(d)(6) shall register by May 1 of each year on a form provided by the Commission, in order to provide information needed by the State in enforcing this Chapter and to support the costs of that enforcement. The registration required by this subsection shall be accompanied by an annual registration and inspection fee of two hundred dollars (\$200.00) for each permit held. The fee shall be paid by May 1 of each

year. A registration fee shall not be refundable. Failure to pay the annual registration and inspection fee shall result in revocation of the permit."

SECTION 26.(a) G.S. 18B-1001.1(b) reads as rewritten:

"(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)~~ 18B-109(d) shall not be included in calculating the total of 1,000 cases per year."

SECTION 26.(b) This section is effective on or after October 1, 2003.

SECTION 27. G.S. 18B-1006(j)(4) is repealed.

SECTION 28. G.S. 18B-1006(m) reads as rewritten:

"(m) Interstate Interchange Economic Development Zones. –

- (1) The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that:
 - a. Has approved the sale of malt beverages, unfortified wine, and fortified wine, but not mixed beverages;
 - b. Operates ABC stores;
 - c. Borders on another state; and
 - d. Lies north and east of the Roanoke River.
- (2) The Commission may issue permits listed in G.S. 18B-1001(1), (3), (5), and (10) to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4) to qualified establishments defined in G.S. 18B-1000(3) in any county that qualifies for issuance of permits pursuant to G.S. 18B-1006(k)(5). These permits may be issued without approval at an election and shall be issued only to qualified establishments that meet any of the following requirements:
 - a. Located within one mile of any interstate highway interchange in that county.
 - b. Located within one mile of an establishment issued a permit under G.S. 18B-1006(k)(5).
- ~~(3) The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that meets all of the following requirements:~~
 - ~~a. Has approved the sale of malt beverages, unfortified wine, fortified wine, but not mixed beverages.~~
 - ~~b. Contains one city that has approved the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages.~~
 - ~~c. Operates ABC stores.~~

- d. ~~Lies south and west of the Roanoke River and shares a common border with a county qualifying in subdivision (1) of this subsection.~~

~~This subsection shall also apply to an establishment in a county included in subdivision (3) of this subsection if the establishment is located within two miles of an interstate highway interchange that is within three miles of the common border described in sub-subdivision (3)d. of this subsection."~~

SECTION 29. G.S. 18B-1104(7) reads as rewritten:

- "(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 310,000 gallons of malt beverages produced by it per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery at not more than three other locations in the State upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision shall also offer for sale at that location a reasonable selection of competitive malt beverage products."

SECTION 30. G.S. 30-3.6(c) reads as rewritten:

- "(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~~ decedents dying on or after January 1, 2001."

SECTION 31.(a) G.S. 35A-1213(b) reads as rewritten:

- "(b) ~~An individual appointed as general guardian or guardian of the estate must be a resident of the State of North Carolina.~~ A nonresident of the State of North Carolina, to be appointed as general guardian, guardian of the person, or guardian of the estate of a North Carolina resident, must indicate in writing his willingness to submit to the jurisdiction of the North Carolina courts in matters relating to the guardianship and must appoint a resident agent to accept service of process for the guardian in all actions or proceedings with respect to the guardianship. Such appointment must be approved by and filed with the clerk, and any agent so appointed must notify the clerk of any change in the agent's address or legal residence. The clerk ~~may~~ shall require a nonresident guardian of the estate or a nonresident general guardian to post a bond or other security for the faithful performance of the guardian's duties. The clerk may require a nonresident guardian of the person to post a bond or other security for the faithful performance of the guardian's duties."

SECTION 31.(b) G.S. 35A-1290(c) reads as rewritten:

- "(c) It is the clerk's duty to remove a ~~guardian~~ guardian or to take other action sufficient to protect the ward's interests in the following cases:

- (1) The guardian has been adjudged incompetent by a court of competent jurisdiction and has not been restored to competence.

- (2) The guardian has been convicted of a felony under the laws of the United States or of any state or territory of the United States or of the District of Columbia and his citizenship has not been restored.
- (3) The guardian was originally unqualified for appointment and continues to be unqualified, or the guardian would no longer qualify for appointment as guardian due to a change in residence, a change in the charter of a corporate guardian, or any other reason.
- (4) The guardian is the ward's spouse and has lost his rights as provided by Chapter 31A of the General Statutes.
- (5) The guardian fails to post, renew, or increase a bond as required by law or by order of the court.
- (6) The guardian refuses or fails without justification to obey any citation, notice, or process served on him in regard to the guardianship.
- (7) The guardian fails to file required accountings with the clerk.
- (8) The clerk finds the guardian unsuitable to continue serving as guardian for any reason.
- (9) The guardian is a nonresident of the State and refuses or fails to obey any citation, notice, or process served on the guardian or the guardian's process agent."

SECTION 31.(c) G.S. 35A-1291 reads as rewritten:

"§ 35A-1291. ~~Interlocutory~~ **Emergency removal; interlocutory orders on revocation.**

The clerk may remove a guardian without hearing if the clerk finds reasonable cause to believe that an emergency exists that threatens the physical well-being of the ward or constitutes a risk of substantial injury to the ward's estate. In all cases where the letters of a guardian are revoked, the clerk may, pending the resolution of any controversy in respect to such removal, make such interlocutory orders and decrees as the clerk finds necessary for the protection of the ward or the ward's estate or the other party seeking relief by such revocation."

SECTION 32.(a) G.S.40A-3(b) reads as rewritten:

"(b) Local Public ~~Condemners~~ Condemners – Standard Provision. – 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, 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.

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."

SECTION 32.(b) G.S. 40A-3(b1) reads as rewritten:

"(b1) Local Public Condemnors- 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 condemners under the procedures of Article 3 of this chapter.

This subsection applies only to 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, and the Village of Bald Head Island."

SECTION 33. G.S. 40A-42(a) reads as rewritten:

- "(a) (1) Standard Provision. – When a local public condemner 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 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 condemner 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 condemner upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41.
- (2) Modified Provision for Certain Localities. – When a local public condemner 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 condemner 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 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, and the Village of Bald Head Island."

SECTION 34.(a) G.S. 50B-3.1(h) reads as rewritten:

"(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 law, including 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."

SECTION 34.(b) This section becomes effective December 1, 2004, and applies to offenses committed on or after that date.

SECTION 35.(a) G.S. 54B-266(1) is repealed.

SECTION 35.(b) G.S. 54C-200(1) is repealed.

SECTION 36. G.S. 58-64-33(a) reads as rewritten:

"(a) A provider shall maintain after the opening of a facility: an operating reserve equal to fifty percent (50%) of the total operating costs of the facility forecasted for the 12-month period following the period covered by the most recent 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. If a facility maintains an occupancy level in excess of ninety percent (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 reserve ~~must~~may be funded by cash, by ~~cash equivalents,~~

invested cash, or by investment grade securities, including bonds, stocks, U.S. Treasury obligations, or obligations of U.S. government agencies."

SECTION 37.(a) G.S. 62-3(23) reads as rewritten:

"(23) a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:

...

- i. The term "public utility" shall not include the State, the Office of ~~the State Controller, Information Technology Services,~~ or the Microelectronics Center of North Carolina in the provision or sharing of switched broadband telecommunications services with non-State entities or organizations of the kind or type set forth in G.S. 143B-426.39.

...."

SECTION 37.(b) G.S. 147-33.92 reads as rewritten:

"§ 147-33.92. **Telecommunications services for local governmental ~~units~~ entities and other entities.**

(a) The State Chief Information Officer shall provide cities, counties, and other local governmental ~~units~~ entities with access to a central telecommunications system or service established under G.S. 147-33.91 for State agencies. Access shall be provided on the same cost basis that applies to State agencies.

(b) The State Chief Information Officer shall establish switched broadband telecommunications services and ~~permit~~ permit, in addition to State agencies, cities, counties, and other local government ~~units,~~ entities, the following organizations and entities to share on a not-for-profit basis:

- (1) Nonprofit educational institutions.
- (2) MCNC.
- (3) Research affiliates of MCNC for use only in connection with research activities sponsored or funded, in whole or in part, by MCNC, if such research activities relate to health care or education in North Carolina.
- (4) Agencies of the United States government operating in North Carolina for use only in connection with activities that relate to health care or education in North Carolina.
- (5) Hospitals, clinics, and other health care facilities for use only in connection with activities that relate to health care or education in North Carolina.

Provided, however, that sharing of the switched broadband telecommunications services by State agencies with entities or organizations in the categories set forth in this subsection shall not cause the State, the Office of Information Technology Services, or the MCNC to be classified as a public utility as that term is defined in G.S. 62-3(23)a.6. Nor shall the State, the Office of Information Technology Services, or the MCNC engage in any activities that may cause those entities to be classified as a common carrier as that term is defined in the Communications Act of 1934, ~~47 U.S.C. § 153(h).~~ 47 U.S.C. § 153(10). Provided further, authority to share the switched broadband telecommunications services with the non-State agencies set forth in subdivisions (1) through (5) of this subsection shall terminate one year from the effective date of a tariff that makes the broadband services available to any customer."

SECTION 38. Article 4 of Chapter 72 of the General Statutes is repealed.

SECTION 39.(a) G.S. 95-138 reads as rewritten:

"§ 95-138. Civil penalties.

~~(a) Any employer who willfully or repeatedly violates the requirements of this Article, any standard, rule or order promulgated pursuant to this Article, or regulations prescribed pursuant to this Article, may upon the recommendation of the Director to the Commissioner be assessed by the Commissioner a civil penalty of not more than seventy thousand dollars (\$70,000) and not less than five thousand dollars (\$5,000) for each willful violation. Any employer who has received a citation for a serious violation of the requirements of this Article or any standard, rule, or order promulgated under this Article or of any regulation prescribed pursuant to this Article, shall be assessed by the Commissioner a civil penalty of up to seven thousand dollars (\$7,000) for each serious violation. If the violation is adjudged not to be of a serious nature, then the employer may be assessed a civil penalty of up to seven thousand dollars (\$7,000) for each nonserious violation. Any employer who fails to correct a violation for which a citation has been issued under this Article within the period allowed for its correction (which period shall not begin to run until the date of the final order of the Board in the case of any appeal proceedings in this Article initiated by the employer in good faith and not solely for the delay or avoidance of penalties), may be assessed a civil penalty of not more than seven thousand dollars (\$7,000). The assessment shall be made to apply to each day during which the failure or violation continues. Any employer who violates any of the posting requirements, as prescribed under the provision[s] of this Article, shall be assessed a civil penalty of not more than seven thousand dollars (\$7,000) for the violation. The Commissioner upon recommendation of the Director, or the Board in case of an appeal, shall have authority to assess all civil penalties provided by this Article, giving due consideration to the appropriateness of the penalty with respect to the following factors:~~

- ~~(1) Size of the business of the employer being charged,~~
- ~~(2) The gravity of the violation,~~
- ~~(3) The good faith of the employer, and~~
- ~~(4) The record of previous violations; provided that for purposes of determining repeat violations, only the record within the previous three years is applicable.~~

~~The Commissioner shall adopt uniform standards which the Commissioner, the Board, and the hearing examiner shall apply when considering the four factors for determining appropriateness of the penalty. The report of the hearing examiner and the report, decision, or determination of the Board on appeal shall specify the standards applied in determining the reduction or affirmation of the penalty assessed by the Commissioner.~~

~~(b) The clear proceeds of all civil penalties and interest recovered by the Commissioner, together with the costs thereof, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.~~

(a) The Commissioner, upon recommendation of the Director, may assess penalties against any employer who violates the requirements of this Article, or any standard, rule, or order promulgated pursuant to this Article, as follows:

- (1) A minimum penalty of five thousand dollars (\$5,000) to a maximum penalty of seventy thousand dollars (\$70,000) for each willful or repeat violation.
- (2) A maximum penalty of seven thousand dollars (\$7,000) for each nonserious or serious violation.

- (3) A maximum penalty of seven thousand dollars (\$7,000) for each day that an employer fails to correct and abate a violation, within the period allowed for its correction and abatement, which period shall not begin to run until the date of the final Order of the Board in the case of any appeal proceedings in this Article initiated by the employer in good faith and not solely for the delay of avoidance of penalties.
- (4) A maximum penalty of seven thousand dollars (\$7,000) for violating the posting requirements, as required under the provisions of this Article.

(b) The Commissioner shall adopt uniform standards that the Commissioner, the Board, and the hearing examiner shall apply when determining appropriateness of the penalty. The following factors shall be used in determining whether a penalty is appropriate:

- (1) Size of the business of the employer being charged.
- (2) The gravity of the violation.
- (3) The good faith of the employer.
- (4) The record of previous violations; provided that for purposes of determining repeat violations, only the record within the previous three years is applicable.

The report of the hearing examiner and the report, decision, or determination of the Board on appeal shall specify the standards applied in determining the reduction or affirmation of the penalty assessed by the Commissioner.

(c) The clear proceeds of all civil penalties and interest recovered by the Commissioner, together with the costs thereof, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 39.(b) This section is effective October 1, 2004, and applies to violations occurring on or after that date.

SECTION 40. G.S. 105-129.6(b) reads as rewritten:

"(b) Reports. – The Department of Revenue shall publish by ~~March 1~~April 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:

...."

SECTION 41. G.S. 108A-25 is amended by adding a new subsection to read:

"(d) Each Community Care network organization designated by the Department of Health and Human Services as responsible for coordinating the health care of individuals eligible for medical assistance in a county is hereby deemed to be a public agency that is a local unit of government for the sole and limited purpose of all grants-in-aid, public assistance grant programs, and other funding programs."

SECTION 42. G.S. 110-139.2(b1) reads as rewritten:

"(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 Procedure~~, except that a notice may be served on a financial institution in any other manner that the financial institution has agreed to in writing at any time prior to the time the notice is sent. The notice 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."

SECTION 43. G.S. 113A-115.1(b) reads as rewritten:

"(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 ~~control~~ control structures in estuarine shorelines."

SECTION 44. G.S. 115C-84.2(d) reads as rewritten:

"(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. Different opening and closing dates may be fixed for schools in the same administrative unit.

~~Local boards and individual schools shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on days scheduled in accordance with subdivision (4) or (5) of this subsection. A teacher may elect to waive this notice requirement for one or more such days."~~

SECTION 45.(a) 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 45.(b) G.S. 115C-238.29F(e)(1) reads as rewritten:

- "(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. All teachers in grades six through 12 who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher certificates to perform duties other than

teaching and may contract for other services. The board may discharge teachers and noncertificated employees."

SECTION 45.(c) This section is effective when it becomes law. Subsection (a) of this section applies to charters granted or renewed on or after that date. Subsection (b) of this section applies to persons employed by charter schools for the 2004-2005 and subsequent school years.

SECTION 46. Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding the following new section to read:

"§ 116-40.7. Internal auditors.

(a) Internal auditors within The University of North Carolina and its constituent institutions shall provide independent reviews and analyses of various functions and programs within The University of North Carolina that will provide management information to promote accountability, integrity, and efficiency within The University of North Carolina.

(b) An internal auditor shall have access to any records, data, or other information of The University of North Carolina or the relevant constituent institution that the internal auditor believes necessary to carry out the internal auditor's duties.

(c) An internal auditor shall maintain, for 10 years, a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the internal auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of that auditor's office shall be retained in accordance with Chapter 132 of the General Statutes. To promote cooperation and avoid unnecessary duplication of audit effort, audit work papers related to issued audit reports shall be, unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal governments in connection with some matter officially before them. Except as otherwise provided in this subsection, or upon subpoena issued by a duly authorized court or court official, audit work papers shall be kept confidential and shall not be open to examination or inspection under G.S. 132-6. Audit reports shall be public records to the extent that they do not include information that, under State laws, is confidential and exempt from Chapter 132 of the General Statutes or would compromise the security systems of The University of North Carolina."

SECTION 47. G.S. 116-238.1 is amended by adding a new subsection to read:

"(f) Notwithstanding any other provision of this section, no tuition grant awarded to a student under this section shall exceed the cost of tuition of the constituent institution at which the student is enrolled. If a student, who is eligible for a tuition grant under this subsection, also receives a scholarship or other grant covering the cost of tuition at the constituent institution for which the tuition grant is awarded, then the amount of the tuition grant shall be reduced by an appropriate amount determined by the State Education Assistance Authority. The State Education Assistance Authority shall reduce the amount of the tuition grant so that the sum of all grants and scholarship aid covering the cost of tuition received by the student, including the tuition grant under this section, shall not exceed the cost of tuition for the constituent institution at which the student is enrolled."

SECTION 48. 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;~~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;~~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;~~terms.
- (4) The President of The University of North Carolina or ~~his~~the President's designee to serve ex ~~officie;~~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 ~~officie;~~officio.
- (6) The President of Western North Carolina Arboretum, Inc., to serve ex ~~officie;~~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;~~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 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 49.(a) The title of Article 6 of Chapter 120 of the General Statutes reads as rewritten:

"Article 6.

~~Acts and Journals.~~Acts, Journals, and Reports to the General Assembly."

SECTION 49.(b) Article 6 of Chapter 120 of the General Statutes is amended by adding the following new section to read:

"§ 120-29.5. State agency reports to the General Assembly.

Whenever a report is directed by law or resolution to be made to the General Assembly, the State agency preparing the report shall deliver one copy of the report to each of the following officers: the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the House Principal Clerk, and the Senate Principal Clerk; and two copies of the report to the Legislative Library. The State

agency is encouraged to inform members of the General Assembly that an electronic copy is available. This section does not affect any responsibilities for depositing documents with the State Library or the State Publications Clearinghouse under Chapter 125 of the General Statutes."

SECTION 49.(c) This section becomes effective October 1, 2004.

SECTION 50.(a) G.S. 120-47.2(d) reads as rewritten:

"(d) Within 20 days after the convening of each session of the General Assembly, the Secretary of State shall furnish each member of the General Assembly and the State Legislative Library a list of all persons who have registered as lobbyists and whom they represent. A supplemental list shall be furnished periodically each 20 days thereafter as the session progresses."

SECTION 50.(b) G.S. 147-16.2 reads as rewritten:

"§ 147-16.2. Duration of boards and councils created by executive officials; extensions.

(a) Any executive order of the Governor that creates a board, committee, council, or commission expires two years after the effective date of the executive order, unless the Governor specifies an expiration date in the order; provided, however, that any such executive order that was in effect on July 1, 1983, expires on June 30, 1985, unless the Governor specified a different expiration date in any such order. The Governor may extend any such executive order before it expires for additional periods of up to two years by doing so in writing; copies of the writing shall be filed by the Governor with the Secretary of State and the State-Legislative Library.

(b) Any other State board, committee, council, or commission created by the Governor or by any other State elective officer specified in Article III of the North Carolina Constitution expires two years after it was created; provided, however, that any such board, committee, council, or commission existing as of July 1, 1984, expires on June 30, 1985, unless it was due to expire on an earlier date. The elective officer creating any such board, committee, council, or commission may extend the board, committee, council, or commission before it expires for additional periods of up to two years by doing so in writing; copies of the writing shall be filed by the elective officer with the Secretary of State and the State-Legislative Library.

(c) Any State board, committee, council, or commission created by any official in the executive branch of State government, other than by those officials specified in subsections (a) and ~~(b)~~, (b) of this section, expires two years after it was created; provided, however, that any board, committee, council, or commission existing as of July 1, 1984, expires on June 30, 1985, unless it was due to expire on an earlier date. The Governor may extend any such board, committee, council, or commission before it expires for additional periods of up to two years by executive order; copies of the executive order shall be filed by the Governor with the Secretary of State and the State Legislative Library.

The words, "official in the executive branch of State government," as used in this section, do not include officials of counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such subdivision, or local boards of education, other local public districts, units or bodies of any kind, or community colleges as defined in G.S. 115D- 2(2), or private corporations created by act of the General Assembly.

(d) Any elective officer specified in subsection (b) of this section and any other official in the executive branch of State government who creates a board, committee,

council, or commission shall do so in writing and shall file copies of the writing with the Secretary of State and the State-Legislative Library."

SECTION 51. G.S. 121-4(16) is repealed.

SECTION 52.(a) G.S. 131E-256 is amended by adding the following subsection to read:

"(a1) The Department shall include in the registry a brief statement of any individual disputing the finding entered against the individual in the health care personnel registry pursuant to subdivision (1) of subsection (a) of this section."

SECTION 52.(b) G.S. 131E-256(e) reads as rewritten:

"(e) The Department shall provide an employer or potential employer of any person listed on the Health Care Personnel Registry ~~of information concerning the~~ nature of the finding or allegation and the status of the investigation."

SECTION 52.(c) G.S. 131E-256 is amended by adding the following subsection to read:

"(i) In the case of a finding of neglect under subdivision (1) of subsection (a) of this section, the Department shall establish a procedure to permit health care personnel to petition the Department to have his or her name removed from the registry upon a determination that:

- (1) The employment and personal history of the nurse aid does not reflect a pattern of abusive behavior or neglect;
- (2) The neglect involved in the original finding was a singular occurrence; and
- (3) The petition for removal is submitted after the expiration of the one-year period which began on the date the petitioner's name was added to the registry under subdivision (1) of subsection (a) of this section."

SECTION 53.(a) 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 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 the institution. No operation shall be performed without the consent of the inmate; or, if the inmate is a minor, without the consent of a responsible member of the inmate's family, a guardian, or one having legal custody of the minor; or, if the inmate be non compos mentis, then the consent of a responsible member of the inmate's family or of a guardian 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 Statutes, ~~G.S. 90-21.13~~G.S. 90-21.13, and ~~G.S. 90-21.14~~G.S. 90-21.16.

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 the inmate's family, guardian, or one having legal custody of 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 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."

SECTION 53.(b) G.S. 148-46.2 reads as rewritten:

"§ 148-46.2. Procedure when consent is refused by prisoner.

When the Secretary of Correction finds as a fact that the injury to any prisoner was willfully and intentionally self-inflicted and that an operation or treatment is necessary for the preservation or restoration of the health of the prisoner and that the prisoner is competent to act for himself or herself; and that attempts have been made to obtain consent for the proposed operation or treatment but such consent was refused, and the findings have been reduced to writing and entered into the prisoner's records as a permanent part thereof, then the chief medical officer of the prison hospital or prison institution shall be authorized to give or withhold, on behalf of the prisoner, consent to the operation or treatment.

In all cases coming under the provisions of this ~~Article, section,~~ the medical staff of the hospital or institution shall keep a careful and complete medical record of the treatment and surgical procedures undertaken. The record shall be signed by the chief medical officer of the hospital or institution and the surgeon performing any surgery. Any treatment of self-inflicted injuries shall also be subject to the provisions of G.S. 90-21.13 and ~~90-21-14.~~G.S. 90-21.16."

SECTION 54. G.S. 148-32.1(a) reads as rewritten:

"(a) The Department of Correction shall pay each local confinement facility a standard sum set by the General Assembly in its appropriation acts at a per day, per inmate rate, for the cost of providing food, clothing, personal items, supervision and necessary ordinary medical services to those inmates committed to the custody of the local confinement facility to serve criminal sentences of 30 days or more. This reimbursement shall not include any period of detention prior to actual commitment by the sentencing court. The Department shall also pay to the local confinement facility extraordinary medical expenses incurred for the inmates, defined as follows:

- (1) Medical expenses incurred as a result of providing health care to an inmate as an inpatient (hospitalized);
- (2) Other medical expenses when the total cost exceeds thirty-five dollars (\$35.00) per occurrence or illness as a result of providing health care to an inmate as an outpatient (nonhospitalized); and
- (3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the inmate is incarcerated, provided the inmate was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the Department is obtained by the local facility.

In order to obtain reimbursement for any of the expenses authorized by this section, a local confinement facility shall submit an invoice to the Department within one year of the date of commitment by the sentencing court."

SECTION 55. G.S. 160A-176.2 reads as rewritten:

"§ 160A-176.2. Ordinances effective in Atlantic Ocean.

(a) A city may adopt ordinances to regulate and control swimming, personal watercraft operation, surfing and littering in the Atlantic Ocean and other waterways adjacent to that portion of the city within its boundaries or within its extraterritorial jurisdiction; provided, however, nothing contained herein shall be construed to permit any city to prohibit altogether swimming or surfing or to make these activities unlawful.

(b) Subsection (a) of this section applies to the Towns of Atlantic Beach, Calabash, Cape Carteret, Carolina Beach, Caswell Beach, Duck, Emerald Isle, Holden Beach, Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, Oak Island, Ocean Isle Beach, Southern Shores, Sunset Beach, Topsail Beach, and Wrightsville Beach, and the City of Southport only."

SECTION 56. G.S. 160A-635(a) reads as rewritten:

"§ 160A-635. Membership; officers; compensation.

(a) The governing body of an authority is the Board of Trustees. The Board of Trustees shall consist of:

- (1) The mayor of the four cities within the service area that have the largest population, or a member of the city council designated by the city council to serve in the absence of the mayor.
- (2) Two members of the Board of Transportation appointed by the Secretary of Transportation, to serve as ex officio nonvoting members.
- (3) The chair of each Metropolitan Planning Organization in the territorial jurisdiction. The chair of the Metropolitan Planning Organization may appoint the Chair of the Transportation Advisory Committee, or a designee approved by the Transportation Advisory Committee, as his or her designee.
- (4) The chair of the board of commissioners of any county within the territorial jurisdiction or a member of the board of commissioners designated by the board to serve in the absence of the chair, but only if the Board of Trustees by resolution has expanded the Board of Trustees to include the chair of the board of commissioners of that county and the board of commissioners of that county has consented by resolution.
- (5) The chair of the principal airport authority or airport commission of each of the two most populous counties within the territorial jurisdiction, as determined by the most recent decennial federal census. The chair of the airport authority or airport commission may appoint a designee. The designee is not required to be a member of the airport authority or airport commission."

SECTION 57. G.S. 163-34 reads as rewritten:

"§ 163-34. Power of county board of elections to maintain order.

Each county board of elections shall possess full power to maintain order, and to enforce obedience to its lawful commands during its sessions, and shall be constituted an inferior court for that purpose. If any person shall refuse to obey the lawful commands of any county board of elections, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed by its chairman, and attested by its secretary, commit the person so offending to the common jail of the county for a period not exceeding 30 days. Such order shall be executed by any sheriff ~~or constable~~ to whom the same shall be delivered, or if a sheriff ~~or constable~~ shall not be present, or shall refuse to act, by any other person who shall be deputed by the county board of elections in writing, and the keeper of the jail shall

receive the person so committed and safely keep him for such time as shall be mentioned in the commitment: Provided, that any person committed under the provisions of this section shall have the right to post a two hundred dollar (\$200.00) bond with the clerk of the superior court and appeal to the superior court for a trial on the merits of his commitment."

SECTION 58. G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Director shall forward a copy of the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of the reply, the State Executive Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Director of the State Board of Elections shall be final unless the decision is, within 20 days from the official date on which it was made, deferred by the State Board of Elections. If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Director of its decision in writing. Any one or more members of the State Board designated by the remaining members of the State Board may conduct the hearing and make a final determination on the termination. For the purposes of this subsection, the member(s) designated by the remaining members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23. If the decision, rendered by the State Board of Elections, after the hearing, results in concurrence with the decision entered by the Executive Director, the decision becomes final. If the decision rendered by the Board after the hearing is contrary to that entered by the Executive Director, then the Executive Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. Elections or its designated member(s).

Upon majority vote on the recommendation of the Executive Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board of Elections shall also notify the chair of the county board of elections and the chair of the county board of commissioners that the State Board has initiated termination proceedings. The State

Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard, present witnesses, and provide information to the State Board. ~~The State Board of Elections shall notify the chair of the county board of elections and the chair of the county board of commissioners that the State Board has initiated termination proceedings.~~ Any one or more members of the State Board designated by the remaining members of the State Board may conduct the hearing and make a final decision. For the purposes of this subsection, the member(s) designated by the remaining members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Director shall, as soon as possible, reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, the chair of the county board of commissioners, and the State Board of Elections. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection. ~~For the purposes of this subsection, the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23."~~

SECTION 59.(a) G.S. 163-278.7(b)(7) reads as rewritten:

"(b) Each appointed treasurer shall file with the Board at the time required by G.S. 163-278.9(a)(1) a statement of organization that includes:

- ...
- (7) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used, provided that the Board shall keep any account number included in any report filed after March 1, 2003, and required by this Article confidential except as necessary to conduct an audit or investigation, except as required by a court of competent jurisdiction, or unless confidentiality is waived by the treasurer. Disclosure of an account number in violation of this subdivision shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of account numbers in violation of this subdivision as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

...."

SECTION 59.(b) This section is effective on and after January 1, 2003.

SECTION 60. G.S. 163-278.64(d)(5) reads as rewritten:

- "(5) A candidate and the candidate's committee shall limit the use of all revenues permitted by this subsection to expenditures for campaign-related purposes only. The Board shall publish guidelines outlining permissible campaign-related expenditures. In establishing those guidelines, the Board shall differentiate expenditures that

reasonably further a candidate's campaign from expenditures for personal use that would be incurred in the absence of the candidacy. In establishing the guidelines, the Board shall review relevant provisions of G.S. 163-278.42(e), the Federal Election Campaign Act, and rules adopted pursuant to it, and similar provisions in other states."

SECTION 61. G.S. 168-2 reads as rewritten:

"§ 168-2. Right of access to and use of public places.

Handicapped persons have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and all other buildings and facilities, both publicly and privately owned, which serve the public. The Department of Health and Human Services shall develop, print, and promote the publication ACCESS NORTH CAROLINA. It shall make copies of the publication available to the Department of Commerce for its use in Welcome Centers and other appropriate Department of Commerce offices. The Department of ~~Economic and Community Development~~ Commerce shall promote ACCESS NORTH CAROLINA in its publications (including providing a toll-free telephone line and an address for requesting copies of the publication) and provide technical assistance to the Department of Health and Human Services on travel attractions to be included in ACCESS NORTH CAROLINA. The Department of Commerce shall forward all requests for mailing ACCESS NORTH CAROLINA to the Department of Health and Human Services."

SECTION 62.(a) G.S. 168-4.2 reads as rewritten:

"§ 168-4.2. May be accompanied by ~~assistance dog~~ service animal.

Every mobility impaired person, as defined in this section, visually impaired person, as broadly defined to include visual disability, ~~or~~ hearing impaired person, as defined in G.S. 8B-1(2), or person with a seizure disorder has the right to be accompanied by ~~an assistance dog~~ a service animal especially trained for the purpose of providing assistance to a person with the same impairing condition as the person wishing to be accompanied, in any of the places listed in G.S. 168-3, and has the right to keep the ~~assistance dog~~ service animal on any premises the person leases, rents, or uses. The person qualifies for these rights upon the showing of a tag, issued by the Department of Health and Human Services, ~~pursuant to~~ under G.S. 168-4.3, stamped "NORTH CAROLINA ASSISTANCE DOG SERVICE ANIMAL PERMANENT REGISTRATION" and stamped with a registration number, or upon a showing that the ~~dog~~ animal is being trained or has been trained as ~~an assistance dog~~. ~~An assistance dog~~ a service animal. The service animal may accompany a person in any of the places listed in G.S. 168-3 but may not occupy a seat in any of these places. The ~~trainer of the assistance dog~~ may be accompanied by the dog service animal may accompany that animal's trainer during training sessions in any of the places listed in G.S. 168-3.

A mobility impaired person is a person with a physiological deficiency, regardless of its cause, nature, or extent, that renders the individual unable to move about without the aid of crutches, a wheelchair, or other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any other related function."

SECTION 62.(b) G.S. 168-4.3 reads as rewritten:

"§ 168-4.3. Training and registration of ~~assistance dogs~~ service animal.

The Department of Health and Human Services, shall adopt rules for the registration of ~~assistance dogs~~ service animals and shall issue registrations to a visually impaired person, a hearing impaired person, ~~or~~ a mobility impaired ~~person~~ person, or a person with a seizure disorder who makes application for registration of ~~a dog~~ an animal that

serves as an ~~assistance dog~~ a service animal. The rules adopted regarding registration shall require that the ~~dog animal~~ be trained as an ~~assistance dog~~ a service animal by an appropriate agency, and that the certification and registration be permanent for the particular ~~dog animal~~ and need not be renewed while that particular ~~dog animal~~ serves the person applying for registration as an ~~assistance dog~~ a service animal. No fee may be charged the person for the application, registration, tag, or replacement in the event the original is lost. The Department of Health and Human Services may, by rule, issue a certification or accept the certification issued by the appropriate training facilities."

SECTION 62.(c) G.S. 168-4.4 reads as rewritten:

"§ 168-4.4. Responsibility for ~~assistance dog~~ service animal.

The visually impaired person, hearing impaired person, ~~or~~ mobility impaired ~~person~~ person, or person with a seizure disorder who is accompanied by an ~~assistance dog~~ a service animal may not be required to pay any extra compensation for the ~~dog animal~~. The person has all the responsibilities and liabilities placed on any person by any applicable law when that person owns or uses any ~~dog animal~~, including liability for any damage done by the ~~dog animal~~."

SECTION 63.(a) Section 9.2 of Chapter 707 of the 1963 Session Laws, as amended by S.L. 2002-66, reads as rewritten:

"Sec. 9.2. Beginning with the 2003-2004 fiscal year, the base amount of funding for current expense expenditures from local funds shall include the previous ~~years'~~ year's level of current expense expenditures (for example, eight million seven hundred thousand dollars (\$8,700,000) in 2002-2003), multiplied by one plus the average percentage change in local current expense school expenditures for the two most recent available fiscal ~~year~~ years for low-wealth counties in North Carolina (all local expenditures shall include local current expense expenditures incurred by charter schools within the appropriate districts), as determined by the Superintendent of Public Instruction or that person's designee. The average percentage change shall be calculated by (i) adding together for each of the two previous fiscal years the total current local expense expenditures for all low-wealth counties, (ii) dividing each of those totals, respectively, by the number of low-wealth counties receiving low-wealth funding in each year to obtain an average low-wealth county local current expense expenditure for each year, and (iii) comparing the two averages. The average percentage change shall equal the percent difference between the averages for the two years. The resulting product shall then be multiplied by a ratio consisting of the Average Daily Membership used to distribute State funding for the succeeding fiscal year as provided by the Department of Public Instruction, divided by the Average Daily Membership used to distribute funding for the current fiscal year, as determined by the Superintendent of Public Instruction, or that person's designee. ~~The resulting number shall be added to or subtracted from the previous year's amount of current expense expenditures from local funds. This sum~~ The resulting product shall be the required level of current expense funding to be appropriated by the Board of Commissioners from any local sources, including both general and supplemental tax revenues, and not including fines and forfeitures or restricted use sales taxes authorized by Article 40 or 42 of Chapter 105 of the General Statutes."

SECTION 63.(b) The remainder of Chapter 707 of the 1963 Session Laws is not changed by this section except to the extent any previously enacted provisions for the establishment and funding of current expense expenditures are inconsistent with the provisions of this section.

SECTION 64.(a) Section 6(a) of Chapter 246, Session Laws of 1991, as rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

"Sec. 6. Orange County Civil Rights Ordinance. (a) The Board of Commissioners of Orange (hereafter 'Board of Commissioners') may adopt an ordinance (hereafter 'the Ordinance') to prohibit discrimination in ~~employment, housing, housing~~ and public accommodations on the basis of race, color, religion, gender, national origin, age, disability, marital status, familial status, and veteran status.

The Board of Commissioners may include in the Ordinance a prohibition of language or conduct or both directed at an individual or at a group of individuals because of that individual's or group of individuals' actual or perceived race, color, religion, gender, national origin, age, disability, marital status, familial status, or veteran status which communicates in a threatening manner words that incite imminent lawless action or which tend to incite an immediate breach of the peace."

SECTION 64.(b) Section 6(b)(9) of Chapter 246, Session Laws of 1991, as rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

"(b) The Board of Commissioners may, in the Ordinance, adopt procedures and delegate powers to the Orange County Human Relations Commission (hereafter 'the Commission') which are necessary and proper for carrying out and enforcing the Ordinance. To assist in the enforcement of the Ordinance, the Commission has, but is not limited to, the following powers:

- ...
- (9) Making application, in its discretion, to the Office of Administrative Hearings for the designation of an administrative law judge to preside over a hearing in cases involving allegedly unlawful ~~employment practices, public accommodations, public accommodations~~ or other conduct made unlawful by subsection (a) of this section after conciliation efforts have failed; and

...."

SECTION 64.(c) Section 6(d) of Chapter 246, Session Laws of 1991, as rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

"(d) The administrative law judge may recommend the imposition of mandatory and prohibitory injunctive relief, compensatory damages (which, as provided by the 1991 Civil Rights Act, includes emotional pain, humiliation, embarrassment, and inconvenience), punitive damages, and any other relief the administrative law judge deems appropriate; provided that:

- (1) Punitive damages may be recommended only if the administrative law judge finds that the respondent engaged in a practice made unlawful under the ordinance with malice or with reckless indifference to the protected rights of the ~~complainant, and complainant.~~
- (2) ~~In cases involving unlawful employment practices, the administrative law judge may recommend reinstatement, hiring, and/or back pay.~~

In all cases wherein the Commission applies to the Office of Administrative Hearings for the designation of an administrative law judge, the Commission shall be the complainant and the case in support of the Commission shall be presented by the Commission's attorney.

The administrative law judge may, in his or her discretion, recommend that the respondent be awarded reasonable costs and attorneys' fees in the event the respondent prevails."

SECTION 65. S.L. 1997-182 is repealed. This also repeals G.S. 18B-1006(l).

SECTION 66. Section 17.1(f) of S.L. 2000-138, as amended by S.L. 2002-180, reads as rewritten:

"**SECTION 17.1.(f)** Members of the Commission ~~shall not~~may receive per diem or reimbursement for travel or subsistence. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the per diem of the Commission established by this Part."

SECTION 67. Section 7.13(b) of S.L. 2002-126 reads as rewritten:

"**SECTION 7.13.(b)** The Office of State Budget and Management shall ~~issue a Request for Proposals for~~conduct an analysis of the structure and operation of the Department of Public ~~Instruction that identifies~~Instruction. The analysis shall identify potential efficiencies and savings in the operations of the Department. The analysis may consider consolidation of functions with other agencies and automation of functions.

~~The Request for Proposals may include contingency proposals based on potential savings.~~

The Office of State Budget and Management shall ~~consult with~~report its findings to the State Board of Education. The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to the award of the contract by March 15, 2004, on the results of the analysis."

SECTION 68.(a) Section 61.5 of S.L. 2002-159 is repealed.

SECTION 68.(b) Section 1.1 of S.L. 2002-162 is repealed.

SECTION 69. The introductory language of the second Section 3 of S.L. 2003-31 reads as rewritten:

"**SECTION ~~3.3.1~~**, Section 36(b) of S.L. 2002-159, as amended by Section 1 of S.L. 2003-2, reads as rewritten:"

SECTION 70.(a) G.S. 20-141(o) reads as rewritten:

"(o) A violation of G.S. 20-123.2 shall be a lesser included offense in any violation of this section. No drivers license points or insurance surcharge shall be assessed on account of a violation of this subsection."

SECTION 70.(b) This section becomes effective December 1, 2004.

SECTION 71. Section 2 of S.L. 2003-128 reads as rewritten:

"**SECTION 2.(a)** A ~~county~~county, city, or 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.

"**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~~ county, city, or town 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~~ county, city, or town 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 county board of commissioners or governing body of the city or town shall hold a public hearing on the proposed ordinance. Notice of the public hearing shall be given in accordance with G.S. ~~153A-323~~ 153A-323 or G.S. 160A-364, as appropriate.

"SECTION 2.(d) ~~This~~ As to county ordinances, 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 72.(a) 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 be complied with. Public schools are not required to comply with G.S. 115C-522(a) in the purchase of supplies and food for such school food services.~~"

SECTION 72.(b) Effective June 4, 2003, Section 12 of S.L. 2003-147 reads as rewritten:

"**SECTION 12.** Sections 1 through ~~8~~9 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~~10 of this act, or April 1, 2004, whichever occurs first. The remainder of this act is effective when it becomes law."

SECTION 73. Section 2 of S.L. 2003-194 reads as rewritten:

"**SECTION 2.** This act is effective when it becomes law and applies to the 2003-2004 academic ~~year~~year, beginning with the Spring 2004 semester, and each subsequent year."

SECTION 74.(a) The introductory language of Section 26(e) of S.L. 2003-212 reads as rewritten:

"**SECTION 26.(e)** ~~G.S. 58-6-30~~G.S. 58-15-30 reads as rewritten:"

SECTION 74.(b) G.S. 58-31-66 reads as rewritten:

"**§ 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 74.(c) Subsection (a) of this section becomes effective January 1, 2004. Subsection (b) of this section becomes effective October 1, 2004.

SECTION 75. Section 7.5 of S.L. 2003-284 reads as rewritten:

"**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."

SECTION 76. Section 11.4(e) of S.L. 2003-284 reads as rewritten:

"**SECTION 11.4.(e)** It is the intent of the General Assembly that the funds under ~~subsection (e)~~ subsection (d) of this section are recurring funds."

SECTION 77. Section 12.6C(a) of S.L. 2003-284 reads as rewritten:

"**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~~ for the purpose of computer system replacement unless they are in excess of the current two-hundred-dollar (\$200.00) fee charged by the Commission for filing a compromise settlement."

SECTION 78. Section 29.21 of S.L. 2003-284 reads as rewritten:

"**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, ~~2003-2004~~. The provisions of G.S. 120-32.02 shall apply to any contract with a consultant pursuant to this section."

SECTION 79. The lead-in language of Section 46.2 of S.L. 2003-284 is rewritten to read:

"**SECTION 46.2.** Article 9 of Chapter 142 of the General Statutes, as enacted by S.L. 2003-314, is rewritten to read:"

SECTION 80. Section 3 of S.L. 2003-300 reads as rewritten:

"**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.~~ an occupational license. During the period of deployment or active duty and until the expiration of the 90-day period provided for in this subdivision, expired occupational licenses that are within the scope of this act remain valid, as if they had not expired. For the purposes of this section, the term "occupational license" means any license (other than a privilege license), certificate, or other evidence of qualification that an individual is required to obtain before the individual may engage in or represent himself or herself to be a member of a particular profession or occupation.
- (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 81. Section 1 of S.L. 2003-320 reads as rewritten:

"**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) Notwithstanding the provisions of G.S. 160A-272, lease the former Lexington Furniture Building for terms it deems appropriate; ~~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 82. Section 12 of S.L. 2003-349 reads as rewritten:

"**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."

SECTION 83. The title of S.L. 2003-401 is amended by adding the following immediately before the period: "AND PROVIDE ADDITIONAL CONSUMER PROTECTIONS".

SECTION 84. Sections 75 through 79 of this act become effective July 1, 2004, unless otherwise provided in those sections. Unless otherwise provided, the remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

Became law upon approval of the Governor at 7:41 p.m. on the 17th day of August, 2004.

**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."

Bill Number	Title of Bill
HOUSE BILL 429	AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PAY MONETARY COMPENSATION FOR REMOVAL OF LAWFULLY ERECTED OFF-PREMISES OUTDOOR ADVERTISING SIGNS AND TO AUTHORIZE LOCAL GOVERNMENTS TO ENTER INTO RELOCATION AND RECONSTRUCTION AGREEMENTS WITH OWNERS OF NONCONFORMING OFF-PREMISES OUTDOOR ADVERTISING SIGNS.

Veto Message for House Bill 429



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY
GOVERNOR

July 9, 2004

GOVERNOR'S OBJECTIONS AND VETO MESSAGE

House Bill 429, "An act to require local governments to pay monetary compensation for removal of lawfully erected off-premises outdoor advertising signs and to authorize local governments to enter into relocation and reconstruction agreements with owners of nonconforming off-premises outdoor advertising signs."

I support fair compensation for the owners of billboards that are removed by localities. I urge the General Assembly to find a reasonable compensation formula because this bill does not accomplish that goal. The formula provided in this legislation is unfair and overly burdensome to city and county governments and the taxpayers they represent. Further, it raises constitutional questions.

Therefore, I veto the bill.

A handwritten signature in cursive script, appearing to read "Easley".

Michael F. Easley

The bill, having been vetoed, is returned to the Clerk of the North Carolina House of Representatives on this 9th day of July, 2004 at 2:01 pm for reconsideration by that body.

Received 4:20 pm
7-9-04 (mp)



LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811

RESOLUTIONS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 2004

S.J.R. 1032

Resolution 2004-1

A JOINT RESOLUTION HONORING THE MEMORY OF MAGGIE SETZER PYLANT FOR WHOM THE TOWN OF MAGGIE VALLEY IS NAMED UPON THE TOWN'S CENTENNIAL OBSERVANCE.

Whereas, the area now known as Maggie Valley was originally settled by Scots-Irish, English, Welch, and German pioneers; and

Whereas, prior to 1904, local resident John Sidney Setzer traveled regularly to the nearby community of Crabtree to collect mail for the residents of the area; and

Whereas, Mr. Setzer wrote the United States Postal Service asking permission for a corner of his parlor to be designated as the valley's post office; and

Whereas, at the time the community did not have an officially designated name; and

Whereas, Mr. Setzer submitted the names of his three daughters Cora, Maggie, and Mettie for consideration; and

Whereas, on May 10, 1904, the United States Postal Service, through its Postmaster General Frank Hickock, officially awarded a post office to the area to be known as "Maggie"; and

Whereas, on May 10, 2004, the citizens of Maggie Valley will take part in a ceremony near the location of the original Maggie Post Office commencing the Town's centennial celebration; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly of North Carolina honors the memory of Maggie Setzer Pylant and encourages the people of this State to participate in activities commemorating the centennial observance of the Town of Maggie Valley.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of Maggie Valley.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of May, 2004.

H.J.R. 1435

Resolution 2004-2

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES WESLEY "WILLIE" YORK, PROMINENT CIVIC LEADER, VISIONARY BUILDER, AND ENTREPRENEUR.

Whereas, James Wesley "Willie" York was born on September 11, 1912, in Raleigh, North Carolina, to Charles Vance York and Mabel Anderson York; and

Whereas, Willie York was educated in the Raleigh public schools; and in 1923 at age 11 commenced under his father's tutelage a building and business career that lasted for the next 80 years; and graduated from the North Carolina State College of Agriculture and Engineering (now North Carolina State University) in 1933 with a B.S. degree in Construction Engineering; and

Whereas, Willie York served his country during the Great Depression as an engineer for the Bureau of Public Roads and as a purchasing agent for the Civilian Conservation Corps in the Great Smoky Mountains; and

Whereas, Willie York served his country during World War II as a builder at Cherry Point Marine Base, Camp Lejeune, and Morehead City, North Carolina; and

Whereas, Willie York was a visionary builder of communities that transformed his native city with such projects as the revolutionary 1949 Cameron Village, York Industrial Park, 1955 Farmer's Market, Velvet Cloak Inn, and Mission Valley Inn and Shopping Center; and

Whereas, Willie York served the city's schoolchildren as a member of the Raleigh School Board from 1957 until 1963 and opened educational opportunities to all of the city's children with his deciding vote to integrate Murphey School in 1960; and

Whereas, Willie York served the citizens of North Carolina as Chair of the North Carolina Board of Conservation and Development from 1965 until 1969 and inaugurated the State's first system of Welcome Centers for the traveling public; and

Whereas, Willie York was instrumental in securing State support and funding for the development and construction of the James B. Hunt Horse Complex that serves North Carolina's expanding equine industry; and

Whereas, Willie York served as Chair of the Raleigh-Durham Airport Authority and in that capacity played a significant role in completing the construction of a major runway and terminal building in 1984; and

Whereas, Willie York was a lifelong devoted supporter of North Carolina State University and was awarded the Watauga Medal in 1990, and contributed the York Auditorium at the McSwain Education Center at the university's J.C. Raulston Arboretum, and was instrumental in establishing the 600-acre Yates Mill County Historic Park in a partnership with the university and Wake County; and

Whereas, Willie York's devotion to improving the lives of others earned him the respect and admiration of all who knew and worked with him; and

Whereas, Willie York's influence in his community and his keen problem-solving ability made him a favorite among politicians and civic leaders, who often sought his advice and counsel; and

Whereas, Willie York was a devoted son of his native city of Raleigh and took every opportunity to share his knowledge of and enthusiasm for local history; and

Whereas, Willie York died on March 2, 2004; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of James Wesley "Willie" York 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 James Wesley "Willie" York 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 James Wesley "Willie" York.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of June, 2004.

H.J.R. 1342

Resolution 2004-3

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLARD EUGENE "GENE" MCCOMBS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Willard Eugene "Gene" McCombs was born on June 16, 1925, in Faith, North Carolina, to Junius Ray McCombs and Ethel Irene Peeler McCombs; and

Whereas, Gene McCombs graduated from Granite Quarry High School in 1942 and attended Catawba College; and

Whereas, Gene McCombs served as a private with the 31st Infantry in the United States Army from 1943 to 1946; and

Whereas, Gene McCombs was a merchant who successfully ran McCombs & Co., a family-owned grocery store, until 1999; and

Whereas, Gene McCombs dutifully served the people of Faith and Rowan County in various public offices for more than 35 years; and

Whereas, Gene McCombs served on the Faith Board of Aldermen from 1948 to 1959 and served as Mayor of Faith from 1959 to 1961; and

Whereas, Gene McCombs served on the Rowan County Board of Commissioners from 1966 to 1976, eight of those years as Chair, and from 1980 to 1982; and

Whereas, Gene McCombs served with honor and distinction as a member of the General Assembly from 1993 to 2003; and

Whereas, during his six terms in the House of Representatives, Gene McCombs made contributions as a member of numerous committees and commissions, including Pensions and Retirement, Congressional Redistricting, Education, Finance, Public Utilities, Rules, and Environment and Natural Resources Committees; and

Whereas, Gene McCombs was active in his community serving as a member of the Jaycees, Civitan Club, and American Legion Post 327; and

Whereas, Gene McCombs served as Chair of the Rowan County Board of Health for 10 years and as a Governor's appointee to the Law and Order Commission; and

Whereas, Gene McCombs was a member of Shiloh United Church of Christ; and

Whereas, Gene McCombs received the Jaycees' Distinguished Service Award and the Rowan Chamber of Commerce's Outstanding Service Award and was twice named "Man of the Year" by the Faith Civitan Club; and

Resolutions - 2004

Whereas, Gene McCombs died on January 20, 2004, at the age of 78; and
Whereas, Gene McCombs is survived by his wife, Jean; son, Keith; daughter, Pam; and four grandchildren; and
Whereas, Gene McCombs will be greatly missed by his family, friends, and colleagues; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life, memory, and service of Willard Eugene McCombs and expresses its gratitude for his service to the people of his district, State, and country.

SECTION 2. The General Assembly extends its heartfelt sympathy to the family of Willard Eugene McCombs 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 Willard Eugene McCombs.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of June, 2004.

S.J.R. 1179

Resolution 2004-4

A JOINT RESOLUTION HONORING THE PENLAND SCHOOL OF CRAFTS ON ITS 75TH ANNIVERSARY AND THE MEMORY OF LUCY MORGAN, THE FOUNDER OF THE PENLAND SCHOOL OF CRAFTS.

Whereas, Penland School of Crafts, a national center for craft education located in Mitchell County, is celebrating its seventy-fifth anniversary in 2004; and

Whereas, Penland School of Crafts was placed on the National Register of Historic Places as the Penland School Historic District in 2004; and

Whereas, Penland School of Crafts has continued to the present the tradition of education and economic assistance begun by Lucy Morgan in 1929; and

Whereas, Penland School of Crafts serves as an anchor for a \$540 million crafts industry in North Carolina; and

Whereas, Penland School of Crafts brings over 18,000 students and visitors to Mitchell County each year and contributes \$6 to \$8 million into the local economy annually through its crafts education programs, its gallery and visitors center, its resident artist program, its employment; and

Whereas, Penland School of Crafts has encouraged over 100 artists to settle and establish small businesses in Mitchell, Yancey, and Avery counties serving as a model of creative enterprise; and

Whereas, Penland School of Crafts promotes an understanding of craft as a common expression and enterprise among people across time, across continents, and across social boundaries; and

Whereas, Penland School of Crafts is known throughout the world for the highest quality of work and its vibrant crafts community; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly hereby honors the memory of Lucy Morgan for her role in helping to establish the Penland School of Crafts.

SECTION 2. The General Assembly applauds the Penland School of Crafts on its 75 years of contribution to the social, cultural, and economic health of Mitchell County and the entire State of North Carolina and extends its congratulations and appreciation for Penland's important role in the life of all North Carolina citizens.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Penland School of Crafts.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 2004.

S.J.R. 1439

Resolution 2004-5

A JOINT RESOLUTION PROVIDING THAT THE 2004 REGULAR SESSION OF THE 2003 GENERAL ASSEMBLY SHALL MEET IN JOINT SESSION TO HONOR BILL FRIDAY AND INVITING HIS EXCELLENCY, GOVERNOR MICHAEL F. EASLEY.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. On Tuesday, June 22, 2004, at 3:00 P.M., the Senate and the House of Representatives shall meet in joint session in the Hall of the Senate to honor Bill Friday.

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 21st day of June, 2004.

S.J.R. 1440

Resolution 2004-6

A JOINT RESOLUTION HONORING WILLIAM "BILL" FRIDAY, PRESIDENT EMERITUS OF THE UNIVERSITY OF NORTH CAROLINA AND THE MEMORY OF WILLIAM R. DAVIE, CHIEF FOUNDER OF THE UNIVERSITY OF NORTH CAROLINA.

Whereas, during the 1789 Session of the General Assembly, William R. Davie introduced legislation to establish the State's first public university; and

Whereas, North Carolina has an exceptional public university system as a result of the contributions made by individuals such as William R. Davie and William "Bill" Friday; and

Whereas, Bill Friday was born on July 13, 1920, in Raphine, Virginia, to David Friday and Mary Elizabeth Rowan Friday; and

Whereas, Bill Friday grew up in Dallas, North Carolina, and attended the Dallas public schools; and

Whereas, Bill Friday attended Wake Forest College for one year before entering North Carolina State College, today North Carolina State University, where he received a bachelors degree in textile engineering in 1941; and

Whereas, Bill Friday married Ida Howell of Lumberton, North Carolina, on May 13, 1942; and

Whereas, Bill Friday served as a lieutenant in the United States Naval Reserve during World War II; and

Whereas, after the war, Bill Friday enrolled in law school at the University of North Carolina at Chapel Hill and earned his degree in 1948; and

Whereas, Bill Friday served as assistant dean of students at the University of North Carolina at Chapel Hill from 1948 until 1951, was appointed as the administrative assistant to Gordon Gray, the President of The University of North Carolina in 1951, and as Secretary of The University of North Carolina in 1955; and

Whereas, Bill Friday was made Acting President of The University of North Carolina in February of 1956 and named President in October of 1956; and

Whereas, Bill Friday led The University of North Carolina in its growth from three to six campuses during the first decade of his presidency and was elected to continue as President in 1971 after the General Assembly restructured The University of North Carolina to include all 16 of the State's public senior institutions of higher learning; and

Whereas, Bill Friday retired as President of The University of North Carolina after 30 years of service in 1986; and

Whereas, Bill Friday has served as an influential leader and member of numerous State and national committees, boards, and commissions, including the Carnegie Commission of Higher Education, North Carolina Rural Economic Development Center, Center for Creative Leadership, North Carolina Institute of Politics, Kathleen Price and Joseph Bryan Family Foundation, American Council on Education, Teachers Insurance and Annuity Association, Kenan Transport Company, Coca-Cola Scholars Foundation National Selection Committee, Knight Foundation National Commission on Intercollegiate Athletics, Regional Literacy Center Commission, North Carolina Institute of Medicine, North Carolina Progress Board, North Carolina Commission on Rural Prosperity, and the North Carolina Golden L.E.A.F. Foundation; and

Whereas, Bill Friday served as the first Executive Director of the William R. Kenan, Jr., Charitable Trust, from 1986 to 1996; and

Whereas, Bill Friday has received many awards, including the American Council on Education Distinguished Service Award for Lifetime Achievement in 1986, the World Citizen Award in 1996, the National Humanities Medal in 1997, and the American Academy for Liberal Education Jacques Barzun Award in 1999; and

Whereas, many colleges and universities have paid tribute to Bill Friday by granting him an honorary degree, including Wake Forest University, Belmont Abbey College, Duke University, Princeton University, Elon University, Davidson College, University of Kentucky, Mercer University, Lenoir-Rhyne College, St. Augustine's College, and Barton College; and

Whereas, Bill Friday has served as host of North Carolina People, a weekly television program on UNC-TV, for 30 years and has remained an active member of his community; and

Whereas, it is especially fitting that Bill Friday, who has served the State well for many years, be acknowledged for his outstanding service to the State of North Carolina; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of William R. Davie for his role in founding The University of North Carolina.

SECTION 2. The General Assembly acknowledges and expresses its appreciation and gratitude to William "Bill" Friday for the contributions he has made to the State of North Carolina.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Bill Friday.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of June, 2004.

S.J.R. 1438

Resolution 2004-7

A JOINT RESOLUTION COMMEMORATING THE LIFE AND ACCOMPLISHMENTS OF RONALD WILSON REAGAN, 40TH PRESIDENT OF THE UNITED STATES OF AMERICA.

Whereas, Ronald Wilson Reagan, our 40th President, died on June 5, 2004, at the age of 93 years; and

Whereas, we remember him as a man of charm, wit, and endless self-confidence, embodying the optimism of Franklin Delano Roosevelt, the eloquence of John Fitzgerald Kennedy, and the inflexible will of Theodore Roosevelt. Especially do we remember his recovery for us all of the virtues of middle America and the values of our founding fathers; his reminding us in his first inaugural address that the states created our union not vice-versa; and his thrust toward devolution of power to the states. We remember, too, his trenchant assertion that "Government is not the solution – Government is the problem;" and

Whereas, we remember that in our own State in March 1976, when his political career seemed hopeless after five successive primary defeats, he broke that string of defeats, revived his campaign, and laid the foundation for his presidency in 1981; and

Whereas, we remember the steadfastness of his opposition to "the Evil Empire" of the Soviet Union even though many in his own party and the opposing party as well as the media urged accommodation, urged that "we go along to get along." Indeed, we remember the consternation of old Europe when he and Prime Minister Margaret Thatcher pressed forward with a zeal to rearm the forces of freedom. We remember especially that day in 1987 at Brandenburg Gate when he challenged Mikhail Gorbachev, "If you seek peace, if you seek prosperity for the Soviet Union and Eastern Europe, if you seek liberalization, come to this Gate ... open this Gate ... tear down this wall;" and

Whereas, his determination, his spirited belief in the ultimate strength and victory of freedom over oppression resulted in large part in the collapse of the Soviet Empire and the liberation of more than 158,000,000 souls among the captive nations of Eastern Europe; and

Whereas, his eloquence in the espousal of limited government, individual self-reliance, and the lowering of our tax burden was accompanied by boundless good humor, self-effacing wit, and a warmth that embraced all of his fellow citizens in all walks of life and all political persuasions; and

Whereas, after two terms, when he left office, he left with the affection of our entire nation, and left us finally a legacy of personal courage as he met the ultimate adversary with these poignant words, "I now begin the journey that will lead me into the

sunset of life ... [but] I know that for America there will always be a bright dawn ahead;" Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly mourns the passing of President Ronald Reagan, a great American and a towering spirit who led us and the free world through a time of peril to ultimate victory over, perhaps historically, our most dangerous enemy.

SECTION 2. The Secretary of State shall transmit a certified copy of this Resolution to the family of President Ronald Reagan and the Legislature and Governor of his home state of California.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of June, 2004.

S.J.R. 1443

Resolution 2004-8

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF KATHLEEN BRYAN EDWARDS, ONE OF THE STATE'S MOST PROMINENT CITIZENS.

Whereas, Kathleen Bryan Edwards was born on September 10, 1928, in New York City to Joseph Bryan and Kathleen Price Bryan; and

Whereas, Kathleen Bryan Edwards completed high school at the Madeira School in Washington, D.C., attended the University of North Carolina at Greensboro, and was graduated from Sweet Briar College; and

Whereas, Kathleen Bryan Edwards was a well-known philanthropist and civic leader who supported both traditional and unique civic endeavors; and

Whereas, Kathleen Bryan Edwards donated her time, talents, and energy to numerous local, State, and national boards; and

Whereas, Kathleen Bryan Edwards was particularly interested in cultural, educational, political, and environmental issues; and

Whereas, Kathleen Bryan Edwards was tireless in her efforts to improve the lives of those who were impoverished or economically challenged; and

Whereas, Kathleen Bryan Edwards was a generous benefactor of many organizations, including the Greensboro Urban Ministry; and

Whereas, Kathleen Bryan Edwards was one of the founders of the Greensboro Opera Company and the Greensboro Day School and helped create the endowment at the Greensboro Symphony Orchestra; and

Whereas, Kathleen Bryan Edwards served as President of The Kathleen Price Bryan Family Fund and The Julian Price Family Foundation; and

Whereas, in 1998, Kathleen Bryan Edwards donated 92 acres of land in the City of Greensboro, which is now the Julian and Ethel Clay Price Park and the site of a new public library scheduled to be opened on September 10, 2004, and named the Kathleen Clay Edwards Family Branch Library; and

Whereas, Kathleen Bryan Edwards was the recipient of the State's highest civilian honor, the Order of the Long Leaf Pine, and numerous other awards; and

Whereas, Kathleen Bryan Edwards received honorary degrees from Sacred Heart College and Belmont Abbey College and was presented with an Outstanding Leadership Award from Bennett College; and

Resolutions - 2004

Whereas, Kathleen Bryan Edwards set an example for all of us through her unflinching compassion for and commitment to all people; and

Whereas, Kathleen Bryan Edwards delighted members of all generations with her wit and charm; and

Whereas, Kathleen Bryan Edwards was respected and admired by all of those who knew her and had the privilege to work with her; and

Whereas, Kathleen Bryan Edwards died on June 11, 2004, at the age of 75; and

Whereas, Kathleen Bryan Edwards is survived by eight children: Laura deBoisfeuillet Edwards, Susan Jarrell Edwards, Mary Price Taylor Harrison, Melanie Ann Taylor, John Guest Taylor, Kathleen Clay Taylor, Joseph McKinley Bryan Taylor, and Ray Howard Taylor III and 11 grandchildren; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly expresses high regard for the life and accomplishments of Kathleen Bryan Edwards and mourns the loss of one of the State's most gifted, beloved, and respected citizens.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Kathleen Bryan Edwards.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 2004.

S.J.R. 1408

Resolution 2004-9

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GENERAL GRIFFITH RUTHERFORD ON THE 225TH ANNIVERSARY OF RUTHERFORD COUNTY.

Whereas, Rutherford County was formed when Tryon County was divided into Lincoln and Rutherford Counties in April 1779; and

Whereas, Rutherford County was named for General Griffith Rutherford of Rowan County, a Revolutionary War general and member of the Provincial Congress; and

Whereas, the early settlers of Rutherford County included people of Scotch-Irish origin, who migrated to the area from Pennsylvania; and

Whereas, Gilbert Town served as the county seat until 1786, when that honor went to Rutherfordton; and

Whereas, it is believed that Westminster was the county's earliest settlement due to the age of the Brittain Presbyterian Church, which was established in 1768; and

Whereas, Rutherford County played a significant role in gold production, with Rutherfordton having the distinction of operating the only private gold mint in the southeastern United States from the 1790s to the 1840s and producing the first gold dollar; and

Whereas, Rutherford County's natural resources have also aided in the production of agricultural and lumber products; and

Whereas, Rutherford County's first textile plant opened in 1874, manufacturing cotton yarn and employing 50 people; and

Resolutions - 2004

Whereas, R. R. Haynes and S. B. Tanner built a cotton mill near Henrietta in 1885 and later built homes for the mill workers along with a school and company store; and

Whereas, this textile mill was the first textile mill to offer hospital insurance to its employees; and

Whereas, Rutherford County remains a favorite destination of tourists, many of whom flock to such sites as Lake Lure and Chimney Rock; and

Whereas, Rutherford County is home to a portion of the Overmountain Victory National Historic Trail, a part of the national trail system, which commemorates the route taken by American Patriot soldiers on their way to the Battle of Kings Mountain; and

Whereas, according to the 2000 census, there are approximately 63,000 people who call Rutherford County home, a significant increase above the 1,136 heads of households recorded in the 1790 census; and

Whereas, the people of Rutherford County are proud of their rich historical heritage, cultural diversity, and natural beauty and wish to commemorate the county's 225th anniversary; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly wishes to honor General Griffith Rutherford for his service to our State and nation, and extends its sincere congratulations and best wishes to the County of Rutherford upon the County's 225th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the county commissioners of the County of Rutherford.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of July, 2004.

S.J.R. 1444

Resolution 2004-10

A JOINT RESOLUTION HONORING THE MEMORY OF DR. GIL WYLIE ON THE 100TH ANNIVERSARY OF LAKE WYLIE.

Whereas, Lake Wylie is the oldest of the 11 impoundments on the Catawba River; and

Whereas, Lake Wylie was first created in 1904 by a dam near Fort Mill, South Carolina; and

Whereas, Lake Wylie flows through Mecklenburg and Gaston Counties in North Carolina and concludes 32 miles south at the Wylie Dam in York County, South Carolina, making it a truly Carolinas lake; and

Whereas, Lake Wylie is named for Dr. Gil Wylie, who was president of the Southern Power Company, a predecessor of Duke Power; and

Whereas, Lake Wylie has served as an important regional resource, providing area residents and visitors with an abundance of electrical power, drinking water, flood management capabilities, recreation, and other opportunities and benefits; and

Whereas, Lake Wylie's 100th anniversary is worthy of recognition; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Dr. Gil Wylie and recognizes the importance of Lake Wylie as a regional resource on its 100th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Lake Wylie Marine Commission.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of July, 2004.

S.J.R. 1441

Resolution 2004-11

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF RAY CHARLES, AN AMERICAN LEGEND.

Whereas, Ray Charles Robinson was born on September 30, 1930, to Baily Robinson and Aretha Robinson, in Albany, Georgia; and

Whereas, Ray Charles moved at the age of three months with his family to Greenville, Florida; and

Whereas, at the age of five, Ray Charles started to go blind as a result of glaucoma. He lost his sight completely within two years and was placed in the Florida School for the Deaf and Blind in St. Augustine, where he learned to read Braille, to play the piano and clarinet, and to memorize music. He discovered mathematics and its correlation to music and learned to compose and arrange music in his head; and

Whereas, at the age of 15, Ray Charles began performing with the "Traveling Hillbilly Bands" and rhythm and blues combinations throughout the South as pianist, clarinetist, and saxophonist. He taught himself to arrange and compose music, both in Braille and by singing the parts to another musician who would write them down; and

Whereas, in 1947, Ray Charles moved to Seattle, Washington, and soon formed a band that imitated the style of Nat "King" Cole and Charles Brown; and

Whereas, Ray Charles recorded a number of singles on the Downbeat and Swingtime labels before signing with Atlantic Records in 1952 and later with ABC-Paramount Record in 1959; and

Whereas, in 1961, Ray Charles made history in Memphis, Tennessee, when for the first time an integrated audience attended his performance at the municipally owned and operated city auditorium. In 1964, he completed an around-the-world tour that included 90 concerts in nine weeks and played to some 500,000 spectators from Japan to Algeria. As an internationally known performer, he has appeared on stages ranging from Carnegie Hall to the Grand Ole Opry and performed concerts in numerous countries throughout the world; and

Whereas, Ray Charles found success with his unique sound of music, which merged blues, gospel, country, jazz, and big band music together; and

Whereas, Ray Charles was described as a musical genius and was often credited with pioneering soul music; and

Whereas, during his career, Ray Charles had number one hits on the R & B, Pop, and Country music charts, showing that his music had no boundaries; and

Whereas, Ray Charles enriched our lives with such hits as "I Got A Woman", "Drown in My Own Tears", "The Night Time Is the Right Time", "What'd I Say"; and

Resolutions - 2004

Whereas, in 1979, Ray Charles' rendition of "Georgia On My Mind" was named the official state song of Georgia; and

Whereas, Ray Charles won 12 Grammy awards from 1960 to 1993; and

Whereas, in another aspect of his career, Ray Charles has to his credit such films as "The Blues Brothers" and a variety of television appearances, including "Country Comes Home", "Ray Charles – A Man and His Soul", "A 40th Anniversary Celebration", and "A Tribute to Martin Luther King, Jr. – A Celebration of His Life"; and

Whereas, Ray Charles recorded soundtracks for "The Cincinnati Kid" in 1965 and "In the Heat of the Night" in 1967, and performed in television commercials for Pepsi during the 1990s; and

Whereas, among his numerous honors and awards, Ray Charles was the recipient of the National Medal of Arts and was inducted into nine halls of fame, including the Rock and Roll Hall of Fame and the Rhythm and Blues Hall of Fame; and

Whereas, Ray Charles was the recipient of many honorary degrees, and in 2000 received an Honorary Doctorate of Humane Letters from Shaw University in Raleigh; and

Whereas, Ray Charles inspired countless musicians and listeners from all over the world with his music and joyous spirit; and

Whereas, Ray Charles died on June 10, 2004, at the age of 73, leaving a lasting legacy for generations to come; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Ray Charles and expresses its appreciation for the life and accomplishments of this great American and for the lasting legacy of his music.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of July, 2004.

H.J.R. 1807

Resolution 2004-12

A JOINT RESOLUTION HONORING THE FOUNDERS OF DUKE POWER ON THE COMPANY'S 100TH ANNIVERSARY.

Whereas, 2004 marks the 100th anniversary of Duke Power, established by its founders James Buchanan "Buck" Duke, Dr. Gill Wylie, and William States Lee; and

Whereas, in 1904, Duke Power embarked on its long relationship with the State of North Carolina when transmission lines were constructed to Pineville and Charlotte; and

Whereas, Duke Power employees and retirees continue a long tradition of community service through their active roles in supporting organizations and activities that improve the quality of life in North Carolina; and

Whereas, Duke Power is one of the larger employers in North Carolina, with some 6,200 employees and serves almost 1.7 million customers in North Carolina; and

Whereas, Duke Power created Lake Norman, North Carolina's largest man-made body of fresh water when it built Cowans Ford Dam in 1963. Lake Norman is essential to the region, since it is an integral part of electricity production for the Cowans Ford Hydro Station, the Marshall Steam Station, and the McGuire Nuclear

Station. Combined, these three facilities provide about 4,600 megawatts of electricity, approximately 23% of Duke Power's total system generating capacity. In addition to electricity, Lake Norman provides a dependable water supply and is enjoyed by thousands each year as a source of recreation; and

Whereas, the vision of the Duke Power founders lives on today, as the company continues to supply the region with electricity; and

Whereas, Duke Power renews its commitment to economic development, working with business and community leaders to invigorate the Carolinas with new ideas and industries to spur economic growth; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of James Buchanan "Buck" Duke, Dr. Gill Wylie, and William States Lee, founders of Duke Power.

SECTION 2. The General Assembly commemorates Duke Power, its employees, and retirees on its 100th anniversary, and extends best wishes for continued success in the future.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Duke Power.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of July, 2004.

S.J.R. 1445

Resolution 2004-13

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE REGULAR SESSION OF THE GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When the Senate and the House of Representatives, constituting the 2003 Session of the General Assembly, adjourn on Sunday, July 18, 2004, they stand adjourned sine die.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of July, 2004.

APPENDIX

EXECUTIVE ORDERS OF GOVERNOR MICHAEL F. EASLEY

Title	Number
GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED	54
EXTENDING THE NORTH CAROLINA STATE HEALTH COORDINATING COUNCIL	55
NORTH CAROLINA INTERAGENCY COUNCIL FOR COORDINATING HOMELESS PROGRAMS	56
AMENDING EXECUTIVE ORDER NO. 54 GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED.....	57
EXTENDING EXECUTIVE ORDER NOS. 48 AND 12 CONCERNING THE STATE COMMISSION ON NATIONAL AND COMMUNITY SERVICE	58
PROCLAMATION OF STATE OF DISASTER FOR THE TOWNS OF BOLTON, LAKE WACCAMAW, CHADBOURN, TABOR CITY AND FAIR BLUFF AND THE CITY OF WHITEVILLE	59
SERVICE CONTRACTS SHALL BE AWARDED IN THE BEST INTEREST OF THE STATE.....	60

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 54 GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED

WHEREAS, the operation of motor vehicles on our highways by persons while impaired constitutes a serious threat to the health and safety of our citizens; and

WHEREAS, a large portion of the fatal crashes on our highways are alcohol related; and the "Booze It and Lose It" program has made driving while impaired a major area of emphasis; and

WHEREAS, the State of North Carolina must consider strong measures designed to deter and prevent the operation of motor vehicles by persons while impaired;

NOW THEREFORE, by the power vested in me as Governor by the laws and Constitution of North Carolina, IT IS ORDERED:

Section 1. Establishment.

The Governor's Task Force on Driving While Impaired is hereby reestablished. The Task Force shall be an ad hoc committee of the Governor's Highway Safety Commission. The Task Force shall be composed of not more than thirty-five members appointed by the Governor to serve at the pleasure of the Governor. The Governor shall designate one of the members as Chair and one as Vice Chair. Additional members shall include, but not be limited to, representatives of law enforcement, the judicial system and the General Assembly.

Section 2. Meetings.

The Task Force shall meet regularly at the call of the Chair and may hold special meetings at any time at the call of the Chair or the Governor. The Task Force is authorized to conduct public hearings.

Section 3. Expenses.

Members of the Task Force shall be reimbursed for such necessary travel and subsistence expenses as are authorized by N.C.G.S. 138-5. Funds for reimbursement of such expenses shall be made available from funds authorized by the Governor's Highway Safety Program.

Section 4. Duties.

The Task Force shall have the following duties:

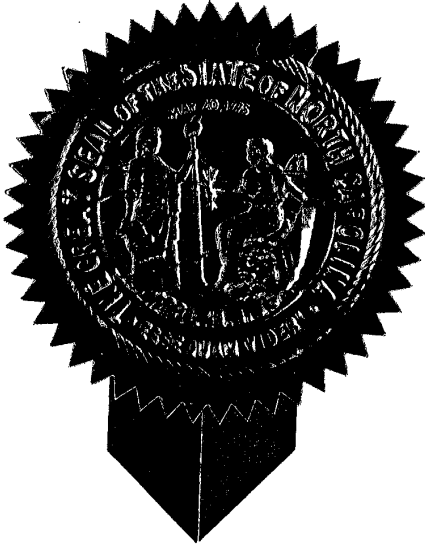
- (a) Review the General Statutes of North Carolina applicable to driving while impaired;
- (b) Review proposals in other states designed to deter driving while impaired;
- (c) Consider legislative proposals to the North Carolina General Assembly;
- (d) Recommend actions to reduce driving while impaired; and
- (e) Other such duties as assigned by the Chair or the Governor.

Section 5. Reports.

The Task Force shall present an interim report to the Governor no later than May 14, 2004 and a final report no later than January 14, 2005. The Task Force shall be dissolved when its final report is presented to the Governor.

This Order shall be effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this 4th day of December, 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. 55
EXTENDING THE NORTH CAROLINA STATE HEALTH COORDINATING COUNCIL

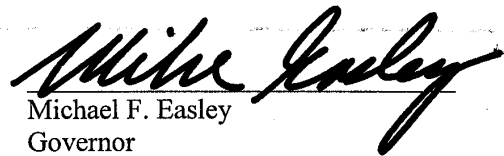
By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED THAT:

Executive Order No. 16 is hereby extended for an additional two years from this date.

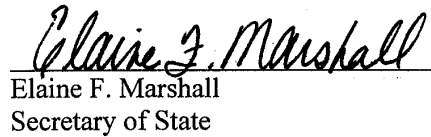
This order is effective immediately.

Done in Raleigh, North Carolina, this the 12th day January, 2004.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 56 NORTH CAROLINA INTERAGENCY COUNCIL FOR COORDINATING HOMELESS PROGRAMS

WHEREAS, the problem of homelessness denies a segment of our population their basic need for adequate shelter; and,

WHEREAS, several State agencies offer programs and services for homeless persons; and,

WHEREAS, to combat the problem of homelessness most effectively, it is critical that these agencies coordinate program development and delivery of essential services.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment

The North Carolina Interagency Council for Coordinating Homeless Programs is hereby established.

Section 2. Membership

The Interagency Council shall consist of a chairperson appointed by the Governor and 28 additional members who shall be appointed by the Governor from the following public and private agencies and categories of qualifications:

- (a) One member from the Department of Administration.
- (b) One member from the North Carolina Housing Finance Agency.
- (c) One member from the Office of State Planning.
- (d) One member from the North Carolina Community College System.

- (e) One member from the Department of Correction.
- (f) One member from the Department of Juvenile Justice and Delinquency Prevention
- (g) One member from the Department of Commerce.
- (h) Three members from the Department of Health and Human Services, one representing the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and one representing the AIDS Care Unit, and one representing the Office of Economic Opportunity.
- (i) One member from the State Board of Education or a member from the Department of Public Instruction.
- (j) One county government official.
- (k) One city government official.
- (l) Six members from non-profit agencies concerned with housing issues and service provision to the homeless.
- (m) One homeless or formerly homeless person.
- (n) One members from the private sector.
- (o) One member representing Public Housing Authorities.
- (p) Three members of the North Carolina Senate.
- (q) Three members of the North Carolina House of Representatives.

Section 3. Chair and Terms of Membership

Each appointment shall be for a term of 3 years. (Initial terms of membership for the other members of the Interagency Council shall be staggered with those members from state departments or agencies and the North Carolina General Assembly serving three year terms and other members serving two year terms. Each appointment thereafter shall be for a term of two years.)

Section 4. Meetings

The Interagency Council shall meet quarterly and at other times at the call of the Chairperson or upon written request of at least five (5) of its members.

Section 5. Functions

- (a) The Interagency Council shall advise the Governor and Secretary of the Department of Health and Human Services on issues related to the problems of persons who are homeless or at risk of becoming homeless, identify and secure available resources throughout the State and nation and provide recommendations for joint and cooperative efforts and policy initiatives in carrying out programs to meet the needs of the homeless.
- (b) The Interagency Council shall set short-term and long-term goals and determine yearly priorities.
- (c) The Interagency Council shall submit an annual report to the Governor, by November 1, on its accomplishments and the status of homelessness in North Carolina.

Section 6. Expenses

Council administrative costs, special function expenses and the cost of member per diem, travel and subsistence expenses shall be paid from state funds appropriated to the Department of Health and Human Services.

Section 7. Staff Assistance

The Department of Health and Human Services shall provide administrative and staff support services required by the Interagency Council.

Done in the Capital City of Raleigh, North Carolina, this the 20th day of January, 2004.



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. 57
AMENDING EXECUTIVE ORDER NO. 54
GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED

WHEREAS, the operation of motor vehicles on our highways by persons while impaired constitutes a serious threat to the health and safety of our citizens; and

WHEREAS, a large portion of the fatal crashes on our highways are alcohol related; and the "Booze It and Lose It" program has made driving while impaired a major area of emphasis; and;

WHEREAS, the State of North Carolina must consider strong measures designed to deter and prevent the operation of motor vehicles by persons while impaired;

NOW THEREFORE, by the power vested in me as Governor by the laws and Constitution of North Carolina, IT IS ORDERED:

Section 1 of Executive Order No. 54 issued by Governor Michael F. Easley on December 4, 2003, is hereby amended as follows:

Section 1. Establishment.

The Governor's Task Force on Driving While Impaired is hereby reestablished. The Task Force shall be composed of not more than thirty-five members appointed by the Governor to serve at the pleasure of the Governor. The Governor shall designate three of the members as

Co-Chairs. Additional members shall include, but not be limited to, representatives of law enforcement, the judicial system and the General Assembly.

Section 2. Meetings.

The Task Force shall meet regularly at the call of the Co-Chairs and may hold special meetings at any time at the call of the Co-Chairs or the Governor. The Task Force is authorized to conduct public hearings.

Section 3. Expenses.

Members of the Task Force shall be reimbursed for such necessary travel and subsistence expenses as are authorized by N.C.G.S. 138-5. Funds for reimbursement of such expenses shall be made available from funds authorized by the Governor's Highway Safety Program.

Section 4. Duties.

The Task Force shall have the following duties:

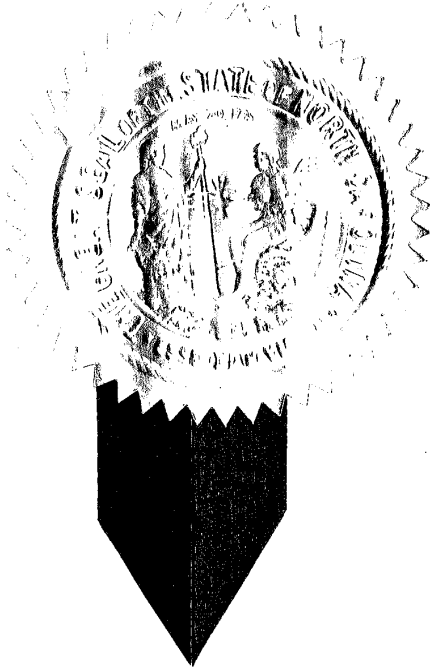
- (a) Review the General Statutes of North Carolina applicable to driving while impaired;
- (b) Review proposals in other states designed to deter driving while impaired;
- (c) Consider legislative proposals to the North Carolina General Assembly;
- (d) Recommend actions to reduce driving while impaired; and
- (e) Other such duties as assigned by the Chair or the Governor.

Section 5. Reports.

The Task Force shall present an interim report to the Governor no later than August 16, 2004 and a final report no later than January 14, 2005. The Task Force shall be dissolved when its final report is presented to the Governor.

This Order shall be effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this 16th day of April, 2004.



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. 58 EXTENDING EXECUTIVE ORDER NOS. 48 and 12

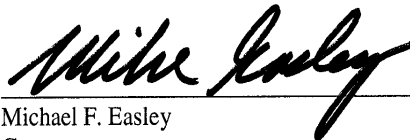
By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 48, Concerning the State Commission on National and Community Service (now known as the "North Carolina Commission on Volunteerism and Community Service"), as previously extended and as previously amended by Executive Order No. 174 issued by Governor James B. Hunt, Jr. on November 8, 2000, and extended by Executive Order No. 12 issued on October 9, 2001, is hereby extended until December 31, 2005.

This order is effective immediately.

Done in Raleigh, North Carolina, this the 20th day of May, 2004.





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 59
PROCLAMATION OF STATE OF DISASTER FOR THE TOWNS OF
BOLTON, LAKE WACCAMAW, CHADBOURN, TABOR CITY AND
FAIR BLUFF AND THE CITY OF WHITEVILLE

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 Towns of Bolton, Lake Waccamaw, Chadbourn, Tabor City, and Fair Bluff and the City of Whiteville as a result of the January 26-27, 2004, ice storm.

WHEREAS, on January 26 and 27, 2004, the Towns of Bolton, Lake Waccamaw, Chadbourn, Tabor City, and Fair Bluff and the City of Whiteville 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 Towns of Bolton, Lake Waccamaw, Chadbourn, Tabor City and Fair Bluff and the City of Whiteville 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 Towns of Bolton, Lake Waccamaw, Chadbourn, Tabor City and Fair Bluff and the City of Whiteville. Brunswick Electric Membership Corporation in Columbus County and Four County Electric Membership Corporation in Bladen and Columbus Counties are eligible entities, for purposes of reimbursement, as defined by N.C.G.S. § 166A-4(3).

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.

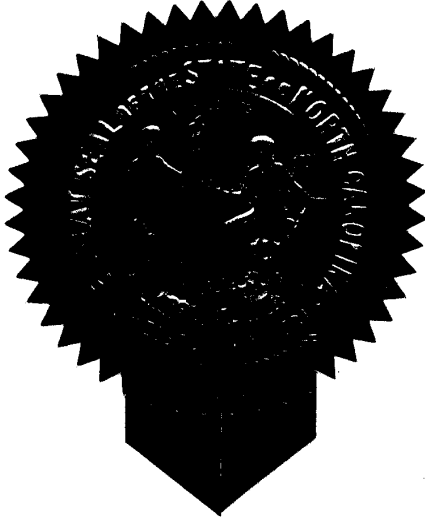
Section 6 The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and state of emergency and Type I disaster proclamation for the Towns of Bolton, Lake Waccamaw, Chadbourn, Tabor City and Fair Bluff and the City of Whiteville, issued on June 1, 2004, unless renewed 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 1st day of June, 2004.


MICHAEL F. EASLEY
GOVERNOR

ATTEST:


ELAINE MARSHALL
SECRETARY OF STATE



State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 60 SERVICE CONTRACTS SHALL BE AWARDED IN THE BEST INTEREST OF THE STATE

WHEREAS, the government of the State of North Carolina annually purchases over three billion dollars worth of goods and services; and,

WHEREAS, the Secretary of Administration and the State Chief Information Officer are responsible for oversight of purchasing of, respectively, goods and services and information technology-specific goods and services for the State of North Carolina; and,

WHEREAS, the Secretary of Administration is required by law to award contracts based on competitive bidding which includes evaluation of price and may include other factors such as quality, vendor performance, and any other factors deemed to be in the best interest of the State; and,

WHEREAS, the State Chief Information Officer is required by law to award information technology contracts based on the Best Value procurement law which requires the best trade-off between price and vendor performance, considering multiple factors such as quality, total cost of ownership, technical merit, vendor's past performance, timeliness, and compliance with industry standards, information technology security, and any other factors deemed to be in the best interest of the State; and,

WHEREAS, the citizens of the State of North Carolina are entitled to know how and where their tax dollars are being spent and whether tax dollars are being spent on services provided by workers located in countries outside of the United States; and,

WHEREAS, the citizens of the State of North Carolina are also entitled to know the economic effect of contracts under which the State's work would be performed outside the jurisdiction of the United States, known as "offshore"; and,

WHEREAS, offshore contractual performance presents a myriad of unique challenges that the Secretary of Administration and the State Chief Information Officer should consider;

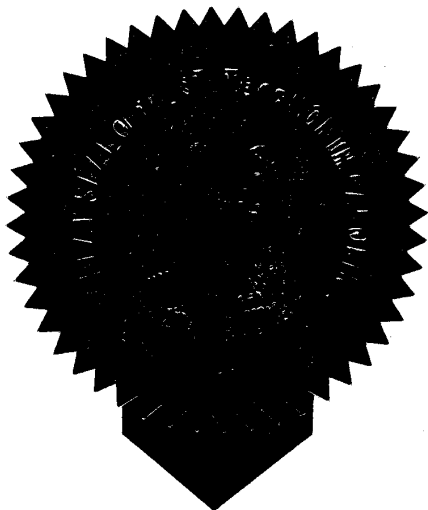
THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, it is Ordered:

1. The Secretary of Administration and the State Chief Information Officer (SCIO) shall adopt policies and procedures consistent with their oversight authority to address the use of state contracts that will be performed totally or partially offshore, in consideration of the purpose of this Order, the requirements of North Carolina laws and regulations regarding contracting and procurement and the best interests of the citizens of the State of North Carolina, as well as federal and international laws.
2. To the extent allowable by law these policies and procedures shall include the following:
 - a. That all requests for proposals (RFP's) issued by the division of Purchase and Contract of the Department of Administration and by the Statewide IT Procurement Office contain the following provision: *The vendor must detail the manner in which it intends to utilize resources or workers located outside of the United States, and the State of North Carolina will evaluate the additional risks, costs and other factors associated with such utilization to make the award for this proposal as deemed by the awarding authority to be in the best interest of the State.*
 - b. The factors for evaluation should include the total cost to the State, level of quality provided by vendor, process capability across multiple jurisdictions, protection of the State's information and intellectual property, availability of pertinent skills, ability to understand the State's business requirements and internal operational culture, risk factors such as the security of the State's information technology, relations with citizens and employees, and contract enforcement jurisdictional issues.
 - c. If, after award of a contract, the contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the state agency responsible for that contract.
3. The Department of Administration (DOA) and the Office of Information Technology Services (ITS) shall require of vendors and shall collect, evaluate

and maintain information necessary to comply with the requirements of this Order, as determined by the DOA and ITS, and may include any of the following:

- a. Information relating to the location of work performed under a state contract by the vendor, any subcontractors, employees, or other persons performing the contract.
 - b. Information regarding the corporate structure and location of corporate employees and activities of the vendor, its affiliates, or any subcontractors.
 - c. Notice of the relocation of the vendor, employees of the vendor, subcontractors of the vendor, or other persons performing services under a state contract outside of the United States.
 - d. A requirement that any vendor or subcontractor providing call or contact center services to the State of North Carolina disclose to inbound callers the location from which the call or contact center services are being provided.
4. DOA and ITS may initiate proceedings to debar a vendor from participation in the bid process and from contract award as authorized by North Carolina law, if it is determined that the vendor has refused to disclose or falsified any information collected consistent with this Order.
 5. All departments and agencies subject to this Executive Order shall assist the Department of Administration and the Office of Information Technology Services as necessary in implementing this Order.

This Order is effective immediately and shall remain in effect until rescinded.
Done in the Capital City of Raleigh, North Carolina, this the 1st day of June, 2004.



Michael F. Easley

Michael F. Easley
Governor

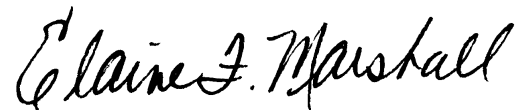
ATTEST:

Elaine F. Marshall

Elaine F. Marshall
Secretary of State

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE,
RALEIGH, AUGUST 17, 2004

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

July 17, 2004

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Budget Reform Statement General Fund Availability

	2004-2005
1 Unappropriated Balance Remaining from FY 2003-04	145,664,254
2 Projected Reversions from FY 2003-2004	150,000,000
3 Projected Over Collections from FY 2003-2004	235,100,000
4 Additional FY 2003-2004 Appropriations (HB 1352)	(64,100,000)
6 Year-End Unreserved Credit Balance	466,664,254
7	
8 Credit to Savings Reserve	(116,666,064)
9 Credit to Repairs and Renovations Reserve Account	(78,797,361)
10 Beginning Unreserved Credit Balance FY 2004-2005	271,200,829
11	
12 Revenues Based on Existing Tax Structure	14,755,690,500
13	
14 Non-tax Revenues	
15 Investment Income	86,020,000
16 Judicial Fees	136,730,000
17 Disproportionate Share	100,000,000
18 Insurance	53,900,000
19 Other Non-Tax Revenues	261,517,607
20 Highway Trust Fund Transfer	242,586,830
21 Highway Fund Transfer	16,166,400
22 Subtotal Non-tax Revenues	896,920,837
23	
24 Total General Fund Availability	15,923,812,166
25	
26 Adjustments to Availability: 2004 Session	
27 HB 1430 (Internal Revenue Code Conformity) Conference Report	(2,600,000)
28 HB 1303 (Reduce Privilege and Excise Taxes) Conference Report	(2,950,000)
29 Sales Tax Refunds and Exemptions	(5,200,000)
30 Research and Development Tax Credit	(4,500,000)
31 Qualified Business Investment Tax Credit	0
32 Tobacco Payments Decline - Tobacco Trust Fund	(5,000,000)
33 Transfer from Fire Safety Loan Fund	250,000
34 Transfer from Veteran's Home Trust Fund	500,000
35 Transfer from Office of State Controller, Budget Code 24160	2,180,000
36 HB 1264 (Finance Vital Projects) Conference Report, Reimburse Debt Service	5,380,000
37 Adjust Transfer from Insurance Regulatory Fund	4,062,654
38 Adjust Transfer from Treasurer's Office	424,708
39	
40 Subtotal Adjustments to Availability: 2004 Session	(7,452,638)
41	
42 Revised General Fund Availability for 2004-2005 Fiscal Year	15,916,359,528
43	
44 Less: Total General Fund Appropriations for 2004-2005 Fiscal Year	(15,916,359,528)
45	
46 Unappropriated Balance	0

SUMMARY:

**GENERAL FUND
APPROPRIATIONS**

General Fund Appropriations						
Fiscal Year 2004-05						
2004 Session						
	2004-05 Authorized Appropriation	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	Position Changes	2004-05 Revised Appropriation
Education:						
Community Colleges	660,199,222	25,362,319	6,250,000	31,612,319	0.00	691,811,541
Public Education	6,034,995,183	47,269,224	75,000,500	122,269,724	1,133.92	6,157,264,907
University System	1,822,426,657	69,031,635	(12,644,795)	56,386,840	0.00	1,878,813,497
Total Education	8,517,621,062	141,663,178	68,605,705	210,268,883	1,133.92	8,727,889,945
General Government:						
Administration	52,583,907	1,681,330	795,000	2,476,330	4.00	55,060,237
Auditor	10,293,801	0	(200,000)	(200,000)	0.00	10,093,801
Cultural Resources	54,088,598	2,295,614	12,648,418	14,944,032	16.00	69,032,630
Cultural Resources - Roanoke Island	1,636,559	0	0	0	0.00	1,636,559
General Assembly	44,971,305	0	(921,318)	(921,318)	0.00	44,049,987
Governor	4,826,503	42,702	0	42,702	0.00	4,869,205
NC Housing Finance Agency	4,750,945	0	1,725,000	1,725,000	0.00	6,475,945
Insurance	23,187,587	3,572,654	490,000	4,062,654	0.00	27,250,241
Insurance - Worker's Compensation Fund	2,600,000	0	(1,734,000)	(1,734,000)	0.00	866,000
Lieutenant Governor	601,722	29,657	0	29,657	1.15	631,379
Office of Administrative Hearings	2,411,797	78,276	12,200	90,476	2.00	2,502,273
Revenue	75,174,094	1,708,151	(3,369,945)	(1,661,794)	-23.00	73,512,300
Rules Review Commission	310,454	(3,185)	0	(3,185)	0.00	307,269
Secretary of State	7,756,198	(110,389)	0	(110,389)	-1.00	7,645,809
State Board of Elections	4,915,939	(49,506)	2,246,918	2,197,412	0.00	7,113,351
State Budget and Management	4,216,110	391,427	10,000	401,427	1.00	4,617,537
State Budget and Management -- Special	3,130,000	50,000	2,163,382	2,213,382	0.00	5,343,382
State Controller	9,719,451	(99,429)	0	(99,429)	0.00	9,620,022
Treasurer - Operations	7,577,784	424,708	0	424,708	5.00	8,002,492
Treasurer - Retirement / Benefits	7,481,179	665,000	0	665,000	0.00	8,146,179
Total General Government	322,233,933	10,677,010	13,865,655	24,542,665	5.15	346,776,598

	2004-05 Authorized Appropriation	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	Position Changes	2004-05 Revised Appropriation
Health and Human Services:						
Office of the Secretary	80,988,433	5,691,037	(371,235)	5,319,802	8.00	86,288,235
Aging Division	27,685,838	1,601,000	1,550,000	3,151,000	0.00	30,836,838
Blind and Deaf / Hard of Hearing Services	9,387,008	(30,000)	0	9,357,008	0.00	9,357,008
Child Development	259,210,693	7,925,000	0	7,925,000	0.00	267,135,693
Education Services	31,670,076	10,873	0	10,873	-2.00	31,680,949
Facility Services	12,256,792	(100,000)	(350,000)	(450,000)	0.00	11,806,792
Medical Assistance	2,449,169,963	(64,275,662)	(24,454,251)	(88,729,913)	0.00	2,360,440,050
MH/DD/SAS	580,423,098	(912,273)	(5,050,000)	(5,962,273)	0.00	574,460,825
NC Health Choice	55,432,822	6,600,000	0	6,600,000	0.00	62,032,822
Public Health	123,448,895	6,924,581	1,302,000	8,226,581	1.00	131,675,476
Social Services	189,029,268	(1,161,948)	(4,400,000)	(5,561,948)	1.00	183,467,320
Vocational Rehabilitation	40,834,858	(479,294)	(1,000,000)	(1,479,294)	-6.00	39,355,564
Total Health and Human Services	3,859,517,744	(38,206,686)	(32,773,486)	(70,980,172)	2.00	3,788,537,572
Justice and Public Safety:						
Correction	959,947,282	318,453	(11,628,350)	(11,309,897)	194.00	948,637,385
Crime Control & Public Safety	28,139,010	(312,373)	4,225,000	3,912,627	4.00	32,051,637
Judicial Department	311,499,694	4,637,501	2,104,417	6,741,918	72.00	318,241,612
Judicial - Indigent Defense	71,019,451	2,500,000	8,500,000	11,000,000	0.00	82,019,451
Justice	71,459,312	856,459	(101,992)	754,467	16.00	72,213,779
Juvenile Justice & Delinquency Prevention	130,585,498	1,615,058	119,011	1,734,069	37.00	132,319,567
Total Justice and Public Safety	1,572,650,247	9,615,098	3,218,086	12,833,184	323.00	1,585,483,431
Natural And Economic Resources:						
Agriculture and Consumer Services	48,616,369	50,538	50,000	100,538	-2.00	48,716,907
Commerce	34,336,301	525,604	(977,867)	(452,263)	16.00	33,884,038
Commerce - State Aid	11,222,085	0	1,950,000	1,950,000	0.00	13,172,085
Environment and Natural Resources	152,798,010	(1,293,297)	2,315,254	1,021,957	5.00	153,819,967
DENR - Clean Water Mgmt. Trust Fund	62,000,000	0	0	0	0.00	62,000,000
Labor	13,274,104	8,990	355,226	364,216	0.00	13,638,320
NC Biotechnology Center	5,883,395	3,200,000	1,800,000	5,000,000	0.00	10,883,395
Rural Economic Development Center	4,658,607	144,000	1,000,000	1,144,000	0.00	5,802,607
Total Natural and Economic Resources	332,788,871	2,635,835	6,492,613	9,128,448	19.00	341,917,319
Transportation						
	11,402,800	(228,056)	0	(228,056)	0.00	11,174,744

	2004-05 Authorized Appropriation	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	Position Changes	2004-05 Revised Appropriation
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	503,682,683	(21,268,480)	(57,000,000)	(78,268,480)		425,414,203
Federal Reimbursement	1,155,948	460,432	0	460,432		1,616,380
Subtotal Debt Service	504,838,631	(20,808,048)	(57,000,000)	(77,808,048)	0.00	427,030,583
Statewide Reserves:						
Compensation Increases - 2003	45,550,000	(900,000)	0	(900,000)		44,650,000
Compensation Increases - 2004	0	253,600,000	7,200,000	260,800,000		260,800,000
State Health Plan	151,225,000	(900,000)	0	(900,000)		150,325,000
Retiree Health Benefit	36,800,000	(6,900,000)	0	(6,900,000)		29,900,000
Retirement Rate Adjustment - TSERS	154,200,000	9,180,000	0	9,180,000		163,380,000
Retirement Rate Adjustment - CJRS	0	339,000	0	339,000		339,000
Adjust Contributions to Benefit Plans	(13,000,000)	0	(6,230,100)	(6,230,100)		(19,230,100)
Contingency and Emergency	5,000,000	0	0	0		5,000,000
Salary Adjustment Fund	4,500,000	0	0	0		4,500,000
LEO Salary Adjustments	0	2,007,385	0	2,007,385		2,007,385
MH/DD/SAS Trust Fund	0	0	10,000,000	10,000,000		10,000,000
Senate Bill 100 Compliance	0	(11,813,949)	0	(11,813,949)		(11,813,949)
Subtotal Statewide Reserves	384,275,000	244,612,436	10,969,900	255,582,336	0	639,857,336
Total Reserves and Debt Service	889,113,631	223,804,388	(46,030,100)	177,774,288	0.00	1,066,887,919
Total General Fund for Operations	15,505,328,288	349,960,767	13,378,473	363,339,240	1,483.07	15,868,667,528
Other General Fund Expenditures:						
Job Development Incentive Grants Reserve	0	4,500,000	0	4,500,000		4,500,000
Capital Improvements	0	0	43,192,000	43,192,000		43,192,000
Total Other General Fund Expenditures	0	4,500,000	43,192,000	47,692,000	0	47,692,000
Total General Fund Budget	15,505,328,288	354,460,767	56,570,473	411,031,240	1,483.07	15,916,359,528

EDUCATION

Section F

Public Education

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

\$6,034,995,183

Budget Changes

A. Adjustments - State Public School Fund

- | | | |
|--|----------------|---|
| 1 Average Daily Membership (ADM) | \$31,404,945 | R |
| <p>Revise projected increase in ADM for FY 2004-05 to reflect 10,130 more students than originally projected. Dollar amount of adjustment includes increase to all position, dollar, and categorical allotments.</p> <p>Total funded ADM for FY 2004-05 is 1,369,062, an increase over FY 2003-04 of 25,256.</p> | | |
| 2 Budgeted Average Salary | (\$11,969,091) | R |
| <p>Revise budgeted funding for certified personnel salaries based on actual salary data from December 2003. Adjustment does not decrease any salary paid to certified personnel.</p> | | |
| 3 Exceptional Children | (\$3,181,728) | R |
| <p>Revise budgeted funding for children with special needs to reflect actual April 1, 2004 headcount. Continuation budget was based on projected headcount. Adjustment does not reduce funding per child.</p> | | |
| 4 Principals | (\$3,865,520) | R |
| <p>Revise allotment to LEAs for Principals to reflect projected 2,252 schools for FY 2004-05.</p> | | |
| 5 Improving Student Accountability | (\$11,294,221) | R |
| <p>Revise funding for improving student accountability to reflect the lower number of students scoring at Levels I and II on end-of-grade tests.</p> | | |
| 6 Continually Low-Performing Schools | (\$1,413,819) | R |
| <p>Revise funding for continually low-performing schools based on fewer schools being so designated. Revised funding will support the one school currently identified as continually low performing.</p> | | |

B. Reductions - State Public School Fund

- | | | |
|---|----------------|---|
| 7 School Bus Replacement | (\$10,512,901) | R |
| <p>Revise school bus replacement schedule for FY 2004-05 to reflect replacement of 600 buses with a three-year lease purchase contract.</p> | | |
| 8 Textbooks | (\$1,547,040) | R |
| <p>Reduce dollar allotment for textbooks to reflect an inflationary increase of 3% (rather than 5%).</p> | | |
| 9 Classroom Materials, Supplies, & Equipment | (\$1,273,228) | R |
| <p>Reduce dollar allotment for materials, supplies, and equipment to reflect an inflationary increase of 2% (rather than 4%).</p> | | |

Conference Report on the Continuation, Capital and Expansion Budgets

FY 04-05

<p>10 Discretionary Teachers Eliminate five of the 10.7 unallotted discretionary teacher positions that have not been utilized in FY 2003-04.</p>	<p>(\$228,775) R -5.00</p>
<p>11 Reduce Contract Labor Costs Direct State Board of Education to transfer up to \$3,200,000 from the State Public School Fund to the UERS Budget within the Department of Public Instruction as contractual obligations are converted into up to thirty-five positions over two years. The net effect of this action will be a recurring savings of \$500,000, \$220,000 of which will be realized in FY 2004-05.</p>	<p>(\$220,000) R</p>
<p>12 Local Education Agency Discretionary Reduction Reduce funds allotted by the State Board of Education to the local education agencies (LEAs), which will have discretion in determining what budget items are reduced.</p>	<p>(\$27,660,000) NR</p>
<p>13 Recruitment & Retention Bonus Discontinue \$1,800 bonus, as defined in Section 7.20(a) of S.L. 2003-284, due to lack of evidence supporting its effectiveness as a recruitment and retention incentive.</p>	<p>(\$2,890,000) R</p>
<p>14 ADM Contingency Reserve Reduce ADM Contingency Reserve.</p>	<p>(\$1,000,000) NR</p>
<p>15 Technology Fund Reduce appropriation for School Technology fund in light of anticipated \$12 million FY 2003-04 year-end cash balance, \$13 million in receipts from fines & forfeitures, \$50 million in funds from other allotment categories expended for technology, and \$44.6 million in federal e-rate reimbursements to LEAs. Total remaining State and federal funds available to support technology expenditures are anticipated to be at least \$120 million.</p>	<p>(\$5,000,000) NR</p>

D. Expansion - Department of Public Instruction

16 Receipt Supported Positions

Create the following permanent receipt supported positions in the Department of Public Instruction:

- A. Closing the Achievement Gap - Federal ESEA Title I Funds
 - 6 Education Consultants - \$472,344
 - 4 Regional Coordinators - \$314,896

Consultants will assist schools in identifying achievement gaps in student performance and in designing strategies for addressing them and in implementing school choice and supplemental services requirements per the No Child Left Behind Act.
- B. Exceptional Children - Federal IDEA Funds
 - Education Consultant II - \$81,046
 - Office Assistant IV - \$32,051

Consultant will provide technical assistance to LEA preschool programs as mandated under the Individuals with Disabilities Act (IDEA). Office Assistant position will assist in ensuring that DPI complies with IDEA mandate to investigate and resolve complaints filed by parents regarding exceptional children's services.
- C. Child Nutrition - Federal Child Nutrition Funds
 - School Meals Program Consultant - \$53,044

Position will assist local education agencies in ensuring that all compliance requirements of federal child nutrition programs are met.
- D. Enhancing Education Through Technology - Federal Technology Grant
 - Regional Telecommunications Specialist - \$55,017

Position will assist schools in implementing their technology plans, particularly as NC Windows of Information on Student Education (NCWISE) systems deployed statewide.

E. Expansion - State Public School Fund

17 ABC Bonuses

Provide funding for ABC bonuses for schools that in FY 2003-04 met or exceeded expected growth.

\$108,000,000 NR

18 Third Grade Class Size

Provide funds to support the reduction of the teacher to student allotment ratio for grade three from 1:22.23 to 1:18.

\$50,467,765 R

1103.00

19 Vocational Education

Increase categorical allotment to LEAs for Vocational Education.

\$4,000,000 R

83.42

20 Vocational Education Program Support

Increase categorical allotment to LEAs for Vocational Education Program Support.

\$448,038 R

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21 Small County Supplemental Funding	\$2,500,000	R
Increase categorical allotment for Small County Supplemental Funding.		
22 Low Wealth Supplemental Funding	\$5,000,000	R
Increase categorical allotment for Low Wealth Supplemental Funding.		
23 Food Services Pilot Program	\$25,000	NR
Provide funding to support a pilot initiative to ensure that school food services serve only healthful, nutritious foods.		
F. Expansion - Other Funds		
24 High School Workforce Development Project	\$1,744,799	R
Provide funds for five pilot projects in which an LEA, community college or university, and employers work together to ensure that (a) high school and higher education curricula are aligned with the workforce training needs of employers, and (b) students have access to accelerated training opportunities. Also provides for planning grant funds for ten additional projects. Provides funds for administrative and program positions in DPI (2.5 FTE), LEAs, and at participating colleges and universities. This funding is the first installment toward a \$10 million State match required to activate a \$10 million commitment from the Gates Foundation.		
	\$462,500	NR
	250	
25 Financial Literacy Pilot Program	\$73,000	NR
Provide funds to the State Board of Education to continue the pilot program to assist LEAs in teaching personal financial literacy.		
26 ExplorNet	\$100,000	R
Provide funds to support ExplorNet, a non-profit organization that promotes effective use of information technology in the public schools.		
	\$100,000	NR
<hr/>		
Budget Changes	\$47,269,224	R
	\$75,000,500	NR
Total Position Changes	1133.92	
Revised Total Budget	\$6,157,264,907	
<hr/>		

Total Budget Approved 2003 Session

\$1,822,426,657

Budget Changes

A. Reductions

- | | | |
|--|----------------|----|
| 27 Management Flexibility Reduction for UNC Campuses | (\$22,572,589) | R |
| Reduces campus budgets by 1.47% except for UNC-CH AHEC and the School of Science and Math. The reduction does not apply to the Legislative Tuition Grant program or the State Contractual Scholarship program. | | |
| 28 Management Flexibility Reduction for Certain Non-Campus Budgets | (\$754,174) | R |
| UNC General Administration, UNC-AHEC, and NC School of Science and Math are reduced by .85%. The reduction excludes the Model Teacher Education Consortium, NC Education Research Council, NC Teach, Teacher Academy, Principal Executive Program, Principal Fellows program, the Mathematics and Science Education Network and the NC Center for the Advancement of Teaching. | | |
| 29 UNC-GA Institutional Programs reduction | (\$70,101) | R |
| Reduces UNC General Administration institution program reserves except financial aid. | | |
| 30 Building Reserve Adjustments for Campuses | (\$5,734,555) | NR |
| When construction projects run behind schedule and experience a delay in opening, adjustments are made in the operating expenses accordingly. These are technical adjustments based on more current estimates. | | |
| 31 Eliminate Old Distance Education Pilot Project funds | (\$500,000) | R |
| This program was established before the General Assembly started providing full funding for distance education programs. | | |
| 32 General Fund Swap for Escheats for Financial Aid | (\$11,110,240) | NR |
| Makes a General Fund reduction by using an appropriation from the Escheat Fund for need-based financial aid programs using the principal of the Escheat Fund. | | |

B. Expansion Items

- | | | |
|---|--------------|---|
| 33 Enrollment Growth for UNC Campuses | \$63,991,225 | R |
| Based on the Board of Governors' estimate, enrollment in the university is projected to increase by 7,458 full-time equivalent (FTE) students or 4.5% to a total of 165,564 FTE in 2004-05. | | |
| 34 NC School of Science and Math Enrollment Growth | \$700,000 | R |
| These funds are to support the enrollment growth of 35 students at the School of Science and Mathematics. | | |
| 35 Legislative Tuition Grants for Private College Students | \$2,600,000 | R |
| These funds will provide money to cover the projected increase of 1,445 FTE or 3% growth in the number of students eligible for the Legislative Tuition Grant program for the 2004-05 year. | | |

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36 State Contractual Scholarship Fund for Private College Students	This program is the need-based financial aid component of the Aid to Private Colleges program. The number of projected FTE students is increasing by 1445.	\$1,600,000	R
37 Need-Based Financial Aid	Expansion of the need-based scholarship program by \$17,500,000 and the replacement of \$11,110,240 in General Funds for Escheat Funds for other need-based financial aid programs are made in a special provision.	\$0	R
38 Matching Funds for Distinguished Professor Endowment	Provides the state matching portion for the Distinguished Professors Endowment fund.	\$6,000,000 \$2,000,000	R NR
39 Schools Attuned Program	These funds would provide additional operating money for the Schools Attuned program.	\$500,000	NR
40 Manufacturing Extension Partnership	Additional funds for the Manufacturing Extension Partnership program at NCSU.	\$500,000	R
41 Biomanufacturing Training Education Center	An appropriation for start up operating expenses and curriculum development for the Biomanufacturing Training Education Center at NCSU.	\$500,000	R
42 Bioprocessing Research Institute and Technology Enterprise	Start up and operating expenses and staffing for the Bioprocessing Research Institute and Technology Enterprise at NCCU.	\$500,000	R
43 UNCC Doctoral Transition Funds	Additional funds to aid in the transition to a doctoral institution for UNC Charlotte.	\$500,000	R
44 Technology Development Initiative: ECU and NCSU	To provide funds for a joint program between ECU and NCSU with \$150,000 distributed to each for a technology development initiative to provide advance degrees in engineering and business at off-campus locations.	\$300,000	R
45 Tuition Grants for Bible College Students	The General Assembly changed the statute during the last session to allow students attending Bible Colleges to receive a tuition grant similar to the Legislative Tuition Grant program. These funds are necessary to provide the money for eligible students.	\$420,000	R
46 UNC-CH Kidney Disease Education Program	Allocates money to UNC Chapel Hill School of Medicine to establish, implement and oversee a statewide kidney disease education program. The program shall include research, educational interventions and program evaluation.	\$400,000	R
47 NC A&T State Matching Funds	Provides funds to NC A&T State University in order to match federal funds for the agricultural research and cooperative extension programs.	\$2,239,199	R

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48 Model Teaching Education Consortium	\$1,000,000	R
Increases funds for this program		
49 Teacher Academy	\$2,000,000	R
Increases funds for this program		
50 Scholarships for Students in Teaching	\$0	R
Provides funds for need-based scholarships for students enrolled in the teacher education programs at the Historically Black Colleges and Universities that do not have any Teaching Fellows. \$390,000 will be funded out of the Escheat Fund		
51 UNC-W Marine Biology	\$2,000,000	R
Provides funds for the UNC Wilmington Marine Biology program		
52 Coastal Studies Institute	\$650,000	R
Provides funds to the Coastal Studies Institute.		
53 Focused Growth Pilot Program	\$150,000	R
Funds to allow WCU, UNC-P and ECSU to waive out-of-state tuition for up to 20 prospective teaching scholars. Each campus will receive \$50,000. The program will be operated according to the provisions of S.L. 2002-126 section 9.9 which created this pilot program		
54 Institute of Emerging Issues	\$365,000	R
Provides funds for the Institute of Emerging Issues.		
55 Hunt Institute	\$500,000	R
Provides operating funds for the Hunt Institute.		
56 Additional Focused Growth Funds	\$4,200,000	R
Provides additional money to the focused growth campuses.		
57 ECSU Pharmacy School Operating Funds	\$985,815	R
Provides money to Elizabeth City State University for the operation of its pharmacy school program		
58 Maintain NC LIVE Series	\$700,000	R
Provides funding to support the continued operation of NC LIVE		
59 Institute of Government	\$127,260	R
Funds an attorney position for the Institute of Government at UNC-CH to provide assistance for registers of deeds.		
60 Morehead Planetarium Funds	\$200,000	NR
Appropriates money for the Morehead Planetarium at UNC-CH.		

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61 Distance Education Project

Provides funds to assist seven universities with their distance learning programs.

\$200,000 NR

Budget Changes

\$69,031,635 R

(\$12,644,795) NR

Total Position Changes

Revised Total Budget

\$1,878,813,497

Community Colleges

GENERAL FUND

		FY 04-05
Total Budget Approved 2003 Session		\$660,199,222
<hr/>		
Budget Changes		
A. Categorical and Miscellaneous Programs		
62 Community Service Block Grant	(\$144,549)	R
Reduces the Community Service Block Grant to actual expenditure levels, from \$1,329,663 to \$1,185,114.		
63 Human Resource Development (HRD)	(\$2,155,125)	R
Eliminates the HRD block grant. HRD classes now earn regular budgeted FTE through the continuing education formula. Colleges will continue to operate HRD programs at the FY 2003-04 level using their enrollment allotment.		
64 Center for Applied Textile Technology	(\$62,500)	R
Reduces the appropriation for the Center for Applied Textile Technology.		
65 Hosiery Technology Center	\$225,000	NR
Provides additional funding for the Hosiery Technology Center at Catawba Valley Community College. These funds are restricted to use at the Hosiery Technology Center and may not be used for any other purpose.		
66 Public Radio - Gaston College	\$125,000	R
Provides funds for the operation of the public radio station at Gaston College.		
67 Additional Public Radio Funds	\$199,000	R
Provides additional funding to be divided equally among the colleges that currently operate public radio stations.		
68 Child Care Grant Adjustment	(\$76,984)	R
Reduces the child care grant to actual expenditures, from \$2 million to \$1,923,016.		
69 Equipment	\$6,000,000	R
Provides additional funding for equipment in the colleges.		
70 Focused Industrial Training (FIT)	\$2,002,439	R
Provides funding for FIT to replace funds previously allotted from the Worker Training Trust Fund (\$1.6 million). Also provides additional funds for the establishment of three new FIT consortia for nine colleges currently unserved by a FIT center (\$302,439). Two other colleges will be combined with an existing FIT center to ensure that all community colleges have FIT services.		

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71 Multi-Campus College Funds	\$6,900,000	R
Provides additional funding to the Multi-Campus allotment to fund the State Board multi-campus formula adopted in 2000. Funding will be provided to the 13 colleges with State Board approved multi-campus sites.		
72 Off-Campus Center Funds	\$1,400,000	R
Provides funds for the 38 colleges with State Board approved off-campus centers. Funds shall be distributed to the colleges on the basis of the Off-Campus Center funding formula adopted by the State Board of Community Colleges in 2000.		
73 Hickory Metropolitan Higher Education Center	\$474,520	R
Provides funding for the Higher Education Center located in Hickory.		
74 Davidson County Community College - Davie County Campus Funds	\$200,000	NR
Provides funds for the expansion of the allied health, early childhood, and college transfer programs on the Davie County Campus of DCCC.		
75 Cleveland Community College Funds	\$400,000	NR
Provides additional funds for the Cleveland Community College Allied Health Program		
76 Material Composite Testing Program	\$100,000	R
Appropriates funds for the Composites Testing Program at Isothermal Community College.		
77 Military Business Center	\$2,000,000	NR
Establishes a Military Business Center at Fayetteville Technical Community College.		
78 Bosch Training Center	\$500,000	NR
Provides funding for the Bosch Training Center at Craven Community College.		
B. Faculty and Professional Staff Salaries		
79 Faculty and Professional Staff Salaries		
Provides \$12.8 million for an additional 2% increase for all faculty and professional staff in the Community College System. This increase is in addition to the increase provided to all State employees. Also provides an additional \$1.2 million to increase faculty salaries currently paid below the minimum salary for their education level to the minimum salary levels set forth in Section 8.3 of H.B. 1414. Funds for these increases are appropriated in the Compensation Reserve section of the Budget.		
C. Tuition, Enrollment, and Financial Aid		
80 Enrollment Growth	\$23,432,327	R
Fully funds enrollment growth in the Community College System. Enrollment increased by 7,947 FTE during the FY2003-04, a 4.40% increase over the previous year. Total budgeted FTE for FY2004-05 is 188,642.		

<p>81 Contingency Reserve for Increased Enrollment and High Unemployment Areas Creates a contingency reserve fund to assist colleges in periods of excessive enrollment increases. The State Board shall use this fund to provide one-time grants to colleges in areas that are experiencing high unemployment in the manufacturing sector, and to assist colleges that experience a total enrollment growth of 10% or higher in the Fall semester.</p>	<p>\$3,000,000 NR</p>
<p>82 Overrealized Receipts Increases the amount budgeted for receipts to reflect the actual amount realized from FY03-04 tuition receipts.</p>	<p>(\$3,243,860) R</p>
<p>83 Tuition Increase Increases curriculum tuition by 7% from \$35.50 per credit hour for in-state tuition to \$38 per credit hour, up to 16 hours. Full-time students will pay \$608 per semester or \$1,216 per year (Fall and Spring). Out-of-state tuition will increase from \$197 per credit hour to \$211 per credit hour. NC Community College in-state tuition rates will continue to be among the five lowest rates in the nation.</p>	<p>(\$9,587,949) R</p>
<p>84 Need-Based Financial Aid Provides an additional \$718,396 for need-based financial aid to be funded from the Escheat Fund. A special provision in the university section of the budget appropriates the funds.</p>	

D. System Office

85 Receipt Supported Positions

Allows for the creation of the following receipt supported positions in the Community College System Office:

A. Career Start - Federal Funds through DHS

2 Education Consultant Is - \$106,807

1 Office Assistant V - \$32,311

The consultants will provide leadership, oversight, and policy guidance for Career Start sites.

B. Project Health - Federal funds through the Dept. of Commerce

1 Education Consultant I - \$53,404

This position will provide oversight and policy guidance for Project H.E.A.L.T.H. - Helping Employers and Labor Transition to Healthcare.

C. Home and Security - Federal Home and Security funds through the Department of Crime Control and Public Safety

1 Program Assistant V - \$41,498

3 Education Program Administrators - \$196,795

1 Education Program Specialist - \$53,044

These positions will work to incorporate new requirements for Home and Security and Domestic Preparedness into existing education and training courses and programs provided by NCCCS.

D. Home and Security - Federal Home and Security funds through the Governor's Crime Commission

1 Program Assistant V - \$34,499

3 Education Consultant Is - \$194,657

1 Education Media Specialist - \$40,039

These positions are being created to respond to the increased specialized training requirements for law enforcement personnel in Home and Security and Domestic Preparedness. The positions will enable NCCCS to develop NC-specific training.

All positions listed are time-limited for the duration of the grants supporting them

Budget Changes	\$25,362,319	R
	\$6,250,000	NR
Total Position Changes		
Revised Total Budget	\$691,811,541	

**HEALTH
&
HUMAN SERVICES
Section G**

Health and Human Services

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

\$3,859,517,744

Budget Changes

(1.0) Division of Aging and Adult Services

- | | | | |
|----------|--|-------------|----|
| 1 | Senior Centers | \$281,000 | R |
| | Provides funding for Senior Center Outreach and Development. Restores a recurring reduction for Senior Centers made in FY 2002-03, and provides additional one-time funds for senior centers for FY 2004-2005. | \$1,550,000 | NR |
| 2 | Increase Rates for Adult Day/Health Care Providers | \$520,000 | R |
| | Provides funding to increase the daily rate funded by the State Adult Day Care Fund for Adult Day Care and Adult Day Health Care services by \$5.00. Additional funds provided for the Home and Community Care Block Grant will also support this rate increase. | | |
| 3 | Home and Community Care Block Grant | \$800,000 | R |
| | Provides funding to partially restore a reduction to the Home and Community Care Block Grant in FY 2003-2004, and provides \$460,000 for a \$5.00 daily rate increase for Adult Day Care and Adult Day Health Care funded by this block grant. | | |

(2.0) Division of Social Services

- | | | | |
|----------|--|---------------|----|
| 4 | Reduce Excess State Funds for State/County SA | (\$5,100,000) | R |
| | Reduces excess state funding in the State/County Special Assistance Program realized by maximizing federal funds in the Medicaid Program for Adult Care Home Personal Care Services. | | |
| 5 | Work First Electing Counties | (\$576,380) | R |
| | Reduces excess cash assistance funding for Work First Counties. | | |
| 6 | Work First Cash Assistance Payments | (\$3,990,726) | R |
| | Reduces state funding for cash assistance based on revised projected payments for FY 2004-05. | | |
| 7 | Reduce Welfare Automation Fund | (\$5,400,000) | NR |
| | Reduces funding for new automation activities. | | |
| 8 | State Administration | (\$250,000) | R |
| | Reduces funding for state administration in the Division of Social Services. | | |

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9 Child Welfare Contracts	(\$500,000)	R
Reduces excess funding for contracts based on historical reversions.		
10 Maximize Federal Funds for Adoption Program	(\$1,000,000)	R
Replaces state funding in the Special Children's Adoption Fund with federal funds in the Temporary Assistance for Needy Families Block Grant.		
11 Reduce Funds for Training Centers	(\$300,000)	R
Reduces state funding for training centers based on historical reversions.		
12 Aid to Counties for Child Protective Services	\$4,000,000	R
Provides funding for counties to hire additional child protective services staff in order to reduce caseloads. An additional \$1,000,000 in Temporary Assistance for Needy Families Block Grant funds is also appropriated for local staff. Combined with the TANF Funds the total amount provided to counties is \$5,000,000.		
13 Methamphetamine Training for CPS Workers	\$205,158	R
Provides funding to train Child Protective Services Staff at the local level who are required to respond to reports of abuse and neglect that are linked to methamphetamine drug use. One position will be hired to develop statewide policy to deal with this issue.		
14 Program Support/Training for MRS Counties	\$750,000	R
Provides funding for counties currently participating in the Multiple Response System (MRS) Pilot Program to assist with additional training needs and program support costs associated with the implementation of the new program.		
15 Increase Foster Care and Adoption Assistance Rates	\$1,600,000	R
Provides funding to increase rates \$25/month per category for Foster Care and Adoption Assistance Payments.		
16 Food Banks	\$1,000,000	R
Provides funding to be equally distributed to the regional network of food banks in North Carolina.		
17 State/County Special Assistance Rate Adjustment	\$3,000,000	R
Provides state funds for State/County Special Assistance recipients to increase the monthly rate from \$1,066 per month to \$1,084 per month. The total requirement for the increase is \$6,000,000. Counties will be required to provide a \$3,000,000 match.		
Total Requirements	\$6,000,000	
Local Funds	(\$3,000,000)	
State Appropriation	\$3,000,000	

18 Receipt Supported Position - Refugee Program

Creates one position in the State Refugee Program

Social Services Consultant II - \$48,942

The position is 100% receipt-supported from the Office of Refugee Resettlement, US DHS. The effective date is July 1, 2004.

(3.0) NC Health Choice

19 N.C. Health Choice

\$6,600,000 R

Provides increased funding for the Health Choice Program

(4.0) Division of Child Development

20 General Administration

(\$75,000) R

Reduces state funding in the administrative budget of program support based on historical reversions.

21 Receipt Supported Positions - ICC

Creates six positions to provide staff support for the Regional Interagency Coordinating Councils.

6 Human Services Planner/Evaluator III's @\$55,276.

These positions are 100% receipt-supported through Part C funds of Individuals with Disabilities Education Act. The effective date is July 1, 2004.

22 Child Care Subsidy

\$8,000,000 R

Increases state funding for child care subsidy. There is an overall increase in the child care subsidy budget of \$25.1M due to increases in the child care subsidy line items for Temporary Assistance to Needy Families, Social Services, and Child Care Development Fund block grants.

(5.0) Office of Education Services

23 Eastern North Carolina School for the Deaf

(\$36,995) R

Eliminates the position of Recreational Worker and some contracted support services.

-1.00

24 Governor Morehead School Position

(\$76,770) R

Eliminates one vacant support staff position and adjusts the salary reserve budget.

-1.00

25 Governor Morehead School Preschool Program

(\$29,162) R

Reduces the contracted services budget for the preschool program at the Governor Morehead School.

26 Central School for the Deaf Budget Adjustment

(\$10,000) R

Eliminates the maintenance budget of the Central School for the Deaf that was closed in June 2001.

27 Beginnings		\$163,800	R
Increases the contract with a nonprofit that provides assistance for families and children who are deaf or hard-of-hearing.			
(6.0) Division of Public Health			
28 Early Intervention Services		(\$250,000)	NR
Reduces funding for the Early Intervention - Developmental Evaluation Centers (now CDSA's) based on historical reversions.			
29 Health Promotion Funding		(\$159,000)	R
Reduces state funding for health promotion activities and replaces these funds with an increase in the Preventive Health Services Block Grant - health promotion line item.			
30 Administrative Office		(\$10,000)	R
Reduces the administrative budget based on historical reversions.			
31 State Center for Health Statistics		(\$10,000)	R
Reduces the administrative budget within the office of Health Statistics based on historical reversions.			
32 Office of Medical Examiner		(\$25,000)	R
Reduces the administrative budget within the Office of Medical Examiner based on historical reversions.			
33 Receipt Supported Positions - Cancer Control			
Creates seven positions within the Chronic Disease and Injury Prevention Section.			
Office Assistant V - \$34,623,			
(2) Nurse Consultant III's @\$65,813 total \$131,626,			
Statistician I - \$43,120,			
Public Health Educator III - \$54,471,			
Office Assistant IV - \$32,921; and,			
Medical Review Specialist, Mammography - \$54,515.			
These positions are 100% receipt-supported through the Centers for Disease Control, National Comprehensive Cancer Control Program and National Breast and Cervical Cancer Control Program Effective July 1, 2004.			

34 Receipt Supported Positions - Cardiovascular

Creates two positions within the Heart Disease and Stroke Prevention Branch to support Cardiovascular Health (Tri State Stroke Network, Stroke Registry)

Office Assistant IV - \$32,051
Public Health Nurse Consultant II - \$60,202

These positions are 100% receipt-supported through the Centers for Disease Control State Heart Disease and Stroke Prevention Program Paul Coverdell National Acute Stroke Registry. Effective July 1, 2004.

35 Receipt Supported Positions - Nutrition Programs

Creates six positions in the Women's, Infant's and Children's Nutritional Program

(3) Nutrition Program Consultants @\$57,682,
1 Program Manager I - \$53,044,
Attorney II - \$86,926; and,
Administrative Assistant I - \$44,770.

These positions are 100% receipt-supported through the National Women's, Infant, and Children's Program and Child and Adult Care Food Program Effective October 1, 2004.

36 Receipt Supported Positions - Food Security

Creates fourteen positions within the Epidemiology Section.

(7) Environmental Program Specialists @\$71,096,
Nurse Consultant II - \$74,253,
Data Processing Coordinator II - \$48,561,
Administrative Assistant I, - \$44,770
Program & Training Coordinator II - \$77,575; and,
(3) Planning and Training Administrators @\$71,096.

These positions are 90% receipt-supported (10% state-supported) through the NC Department of Agriculture from the Federal Homeland Security Agency. Effective July 1, 2004.

37 Receipt Supported Positions - Health Promotion

Creates seven positions within the Chronic Disease & Injury Prevention Section.

Manager I - \$74,253,
Program Assistant V - \$39,874,
Nurse Consultant II - \$74,253,
Human Service Planner/Evaluator II - \$65,171,
(2) Program Supervisor II's @\$65,171; and,
Statistician II - \$52,770.

These positions are 100% receipt-supported through the Centers for Disease Control Steps to a Healthier US Program Effective October 1, 2004.

38 Receipt Supported Positions - Asthma Program

Creates two receipt-supported positions within the North Carolina Asthma Program and Special Needs Children's Program. Effective September 1, 2004.

Statistician II - \$59,008, and
Program Consultant II - \$54,471.

These positions are 100% receipt-supported through the Centers for Disease Control and Prevention. Effective September 1, 2004.

39 Receipt Supported Positions - Wellness Activities

Creates .5 FTE position for the promotion of health and wellness activities.

.5 FTE Program Supervisor II - \$27,638.

This position is 100% receipt-supported through the NC State Health Plan. Effective July 1, 2004.

40 Receipt Supported Positions - Minority Health

Creates one position within the Office of Minority Health.

Human Service Planner/Evaluator III - \$55,276

This position is 100% receipt-supported through the National AmeriCorps Grant. Effective August 1, 2004.

41 Receipt Supported Positions - Breath Alcohol Test

Creates one position within the Forensic Test for Alcohol Program.

Staff Development Technician II - \$39,726.

This position is 100% receipt-supported through the NC Governor's Highway Safety Program Grant. Effective July 1, 2004.

42 Receipt Supported Positions - HIV/AIDS Prevention

Creates 2.5 positions within the Division of Public Health to support in the HIV/AIDS prevention activities.

.5 FTE Public Health Program Supervisor II - \$27,638,
Research Associate II - \$59,914, and;
Public Health Coordinator - \$68,042.

These positions are 100% receipt-supported through the HIV/AIDS Prevention Grant Funds and The HIV Prevention Cooperative Agreement Supplemental Application. Effective date is July 1, 2004.

43 Receipt Supported Positions - Health and Wellness

Creates two positions within Chronic Disease and Injury Prevention Section.

Program Consultant I - \$47,666
 Program Consultant II - \$48,942

These positions are 100% receipt-supported by the Health and Wellness trust Fund Commission and the Center for Disease Control Physical Activity and Nutrition Grant. Effective date is July 1, 2004.

44 Receipt Supported Positions - Immunizations

Creates eight positions within the Division of Public Health - Immunization Branch.

2 Help Desk Assistant II's @\$38,454 each,
 Health Educator II - \$48,808,
 Information Processing Assistant IV - \$35,613,
 3 Public Health Nurse Consultant II's @\$68,588, and;
 Information Processing Assistant III - \$33,094.

These positions are 100% receipt-supported through the federal Immunization Grant. The effective date is January 1, 2005.

45 AIDS Drug Assistance Program

Increases state funding in the ADAP program for the purchase of prescription drugs for patients.

\$2,765,622 R

46 Healthy Start

Increases funding for Healthy Start Foundation for the prevention of infant mortality and morbidity.

\$225,000 NR

47 UNC - CCCDP

Increases funding for the UNC Chapel Hill's Carolina Children's Communicative Disorder Program for it's operations.

\$177,000 NR

48 Child Fatality Task Force

Restores funding for one position and program support for the Child Fatality Task Force

\$64,429 R

1.00

49 School Health Nurse Initiative

Provides funding for 80 school health nurses around the state. This funding and the funding from Maternal and Child Health Block Grant will fund 145 new school nurses.

\$4,000,000 R

50 Arthritis Prevention Program

Provides a grant-in-aid for a private local project in Mecklenburg County.

\$25,000 NR

51 WIC Farmers Market Program

Restores funding for the Farmers Market Program

\$156,630 R

<p>52 Public Health Incubators Provides funding that will be transferred to UNC-CH for the promotion of regionalism for public health activities. Funding would be given to coalitions to address public health issues in a region.</p>	<p>\$1,125,000 NR</p>
<p>53 Prevent Blindness Provides funding to restore a reduction from a previous fiscal year.</p>	<p>\$41,900 R</p>
<p>54 Public Health Improvements Provides funding local health departments that have been accredited through the Public Health Accreditation and funds for the Pilot Accreditation Advisory Board.</p>	<p>\$100,000 R</p>
<p>(7.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services</p>	
<p>55 Central Office Reduces funding for the Central Office based on historical reversions in each of the past two fiscal years.</p>	<p>(\$500,000) NR</p>
<p>56 Central Office Contracts Reduces funding for technical assistance, training, and service contracts through the Division's Central Office.</p>	<p>(\$199,273) R</p>
<p>57 Institutional Receipts Reduces funding to the State institutions by budgeting over-realized receipts.</p>	<p>(\$2,000,000) R (\$2,550,000) NR</p>
<p>58 Area Mental Health Programs Reduces funding for Area Programs based on historical reversions in each of the past two fiscal years. Area Programs reverted \$41.7 Mil in FY 2001-02 and \$21.4 Mil in FY 2002-03. No impact to current service levels is anticipated.</p>	<p>(\$2,000,000) NR</p>
<p>59 Autism Society of NC Increases funding to the Autism Society for the following purposes: Director of Development \$70,000 Director of Finance \$65,000 Communications Assistant \$30,000 Human Resources Assistant \$30,000 IT Assistant \$35,000 Parent Advocate - Fluent in Spanish \$45,000 Summer Camp \$25,000</p>	<p>\$300,000 R</p>
<p>60 Division TEACCH Provides funding to the Board of Governors of the University of North Carolina to fund Division TEACCH in the School of Medicine at UNC-CH.</p>	<p>\$237,000 R</p>

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<p>61 Housing Support for the Mentally Ill Provides funding for the expansion of housing support and placements for persons with mental illness. A \$13 million federal match is anticipated.</p>	<p>\$750,000 R</p>
<p>(8.0) Division of Facility Services</p>	
<p>62 Central Office Reduces funding for the Central Office based on historical reversions in each of the past two fiscal years.</p>	<p>(\$50,000) R</p>
<p>63 Facilities and Health Service Regulation Reduces funding to the Facilities and Health Services Regulation Section based on historical reversions in each of the past two fiscal years.</p>	<p>(\$50,000) R</p>
<p>64 NC Medical Care Commission Eliminates the anticipated cash balance of the special fund that funds the operations of the Medical Care Commission. This special fund typically maintains a cash balance equivalent to one year's operation of the Commission.</p>	<p>(\$350,000) NR</p>
<p>65 Receipt Supported Position - HRSA Bioterrorism Creates one position for the Division of Facility Services to provide clerical support to the Bioterrorism Budget Officer in the Office of Emergency Medical Services: Processing Assistant IV - \$32,051 This position is 100% receipt-supported through the federal Bioterrorism Hospital Preparedness Program Grant. Effective September 1, 2004.</p>	
<p>(9.0) Divisions of Services for the Blind and Services for Deaf & Hard of Hearing</p>	
<p>66 State Assistance for the Blind Reduces appropriations for the State Assistance for the Blind Program due to historical reversions in each of the past two years.</p>	<p>(\$30,000) R</p>
<p>67 Electronic Enhancement for the Blind Requires the Department of Health and Human Services to budget \$76,000 of prior year earned revenue to fund the Electronic Enhancement for the Blind contract through the Division of Services for the Blind. Electronic Enhancement for the Blind \$76,000 Transfer from Prior Year Earned Revenue (\$76,000) State Appropriations 0</p>	

68 Receipt Supported Positions - Counseling

Creates two positions to provide specialized vocational services in the Charlotte-Mecklenburg County Public School System

Community Employment Specialist II - \$38,694
 Rehabilitation Counselor - \$45,908

These positions are 100% receipt-supported through federal Rehab Section 110 Funds and a contribution from the local school system Effective July 1, 2004.

69 Receipt-Supported Positions

Creates three positions to develop and maintain telecommunications access to emergency alert and warning systems throughout the state for deaf, hard of hearing, and deaf-blind residents:

Research and Applications Consultant - \$47,658
 Administrative Officer II - \$47,658
 Office Assistant IV - \$28,769

These positions are 100% receipt-supported from Telecommunications Relay System Wireless Revenue. Effective July 1, 2004.

(10.0) Division of Medical Assistance

70 Federal Financial Participation Rate	(\$40,236,086)	R
Reduces funding for the Medicaid program to reflect an increased federal financial participation rate.		
71 Medicaid Growth Rate Adjustment	(\$22,000,000)	R
Reduces funding for the Medicaid Program by adjusting the annual growth rate from 12.3% to 11.3% to reflect the national trend for state Medicaid programs.		
72 Medicaid Reserve Fund	(\$24,454,251)	NR
Transfers funding from the G.S. 143-23.2 reserve to support current services and reduce state appropriations.		
73 Bed Assessment for State ICF-MR Facilities	(\$3,000,000)	R
Authorizes the Department of Health and Human Services to implement a bed assessment for State ICF-MR facilities and increase federal funding for these facilities resulting in reduced state appropriations.		
74 Weight Loss and Weight Gain Drugs	(\$939,576)	R
Eliminates funding for weight loss and weight gain drugs.		
75 Community Care of NC	\$1,000,000	R
Provides funding to continue the state wide expansion of the Community Care of NC Program (formerly Carolina ACCESS).		

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76 Prosthetic and Orthotic Coverage For Adults	\$900,000	R
Expands Medicaid coverage for medically necessary prosthetics and orthotics for adults over 21.		
(11.0) Division of Vocational Rehabilitation		
77 Administrative Efficiencies	(\$479,294)	R
Reduces funding due to increased efficiencies in administration and support services and more efficient pricing for case services. Includes the elimination of six vacant positions.		
78 Federal Indirect Costs Receipts	(\$1,000,000)	NR
Requires the Division of Vocational Rehabilitation to budget federal indirect cost receipts and reduce state appropriations.		
(12.0) Office of the Secretary		
79 Prior Year Earned Revenue	(\$11,787,400)	NR
Requires the Department of Health and Human Services to budget prior year earned revenue and reduce state appropriations in the programs that receive prior earned revenue.		
80 Division of Information Resource Management		
Requires the Department of Health and Human Services to permanently budget \$14,200,000 of prior year earned revenue to support the ongoing operations of the Division of Information Resource Management.		
	\$14,200,000	
	(\$14,200,000)	
	0	
81 Position Elimination Reserve	(\$800,000)	R
Reduces funding by eliminating vacant or filled positions, reducing layers of management, and reducing related state administrative operating expenses throughout the Department of Health and Human Services.		
82 Centralize IT Functions	(\$2,000,000)	R
Requires the Department of Health and Human Services to transfer all IT functions still located in each program division to the Division of Information Resources and reduce state appropriations resulting from the increased efficiencies.		
83 Community Health Grants	\$7,000,000	NR
Provides funding for a competitive grant-in-aid program for community health services: \$5,000,000 for federally qualified community health centers and \$2,000,000 for state designated rural health centers and public health departments providing primary health care services.		

84 MMIS Implementation

Transfers funding from the G.S. 143-23.2 reserve to fund the state share of implementing the new Medicaid Management System (MMS).

Total Requirements	\$5,000,000
Transfer from Medicaid Reserve Fund	(\$5,000,000)
State Appropriations	0

85 Adult Day Services Reimbursement Study

Provides funding for a contract with a national adult day services center to provide training and consultation services and to study the current reimbursement methodology for adult day services.

\$250,000 NR

86 N. C. Special Olympics, Inc

Provides a grant-in-aid to the North Carolina Special Olympics, Inc.

\$100,000 R

87 ALS Association - Jim "Catfish" Hunter Chapter

Provides a grant-in-aid to the ALS Association - Jim "Catfish" Hunter Chapter.

\$50,000 NR

88 Receipt Supported Positions - DD Council

Creates one position for the Council on Developmental Disabilities to provide assistance in the Program Quality Improvement Section:

Office Assistance III - 30, 114

This position is 100% receipt-supported from federal developmental disabilities formula funds. Effective July 1, 2004.

89 Receipt Supported Positions - Housing Program

Creates three positions in the Office of the Secretary to work in collaboration with the NC Housing Finance Agency and the DHS Housing Work Group to expand community housing opportunities for DHS clients:

(3) Community Development Specialist I	\$54,503
Community Development Specialist II	\$59,278

These positions are 100% receipt-supported from the Federal Real choice Systems Change Grant. Effective January 1, 2005.

90 Dorothea Dix Campus Master Plan

Provides funding for the creation of a master plan of the Dix Campus in accordance with the recommendations of the Dorothea Dix Property Study Commission. The City of Raleigh will provide an equal match.

\$100,000 NR

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91 Long-Term Care Criminal Record Checks	\$200,000	R
Provides funding to DHS implement a system for conducting criminal records background checks for potential employees in long-term care facilities. Provides for the transfer of non-recurring funds to the Department of Justice to upgrade an existing billing system currently used for criminal records checks.	\$250,000	NR
	5.00	
92 Child Advocacy Centers		
Provides a \$25,000 grant-in-aid to each of the 14 certified child advocacy centers.	\$350,000	NR
93 Butner Fire Truck	\$150,000	R
Provides funding to Butner Public Safety in the Department of Crime Control and Public Safety for the purpose of purchasing a pumper/tanker fire truck.		
94 Grants Reserve		
Provides funds for health and human services grants.	\$2,400,000	NR
95 More At Four	\$8,041,037	R
Increases funding for the More At Four budget to allow the program to fund approximately 2,000 additional slots. Provides a one time appropriation for the start-up costs of these new slots.	\$1,016,165	NR
	3.00	
<hr/>		
Budget Changes	(\$38,206,686)	R
	(\$32,773,486)	NR
Total Position Changes		2.00
Revised Total Budget	\$3,788,537,572	
<hr/>		

**NATURAL
&
ECONOMIC
RESOURCES
Section H**

Agriculture and Consumer Services

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$48,616,369

Budget Changes

Aquaculture Development

1 Reduce Operating Support	(\$10,000)	R
Operating support savings realized due to divisional re-organization.		

Budget and Finance

2 Shift Position to Receipt Support	(\$27,251)	R
Fund shift 1.0 position to receipts from indirect costs.		
Payroll Clerk IV (1.0) (\$27,251)		-1.00

Emergency Programs

3 Receipt-Supported Positions

Allows for the establishment of the following 28.0 time-limited permanent appointments upon receipt of federal grant funds. No state funds will be expended on these positions. The dollar amounts are estimates only of salary.

- A. DHS/CENS Contract
Applications Programmer II (1.0) \$59,658
- B. DHS/Mental Health Contract
Applications Programmer II (1.0) \$59,658
- C. NC Threat Reduction Grant
Applications Analyst Progr II (1.0) \$51,000
- D. Food Security Personnel Support Grant
 - Food Security Liaison (1.0) \$59,658
 - Assessment Section Coordinator (1.0) \$71,683
 - Veterinary Surv & Em Response Spec (7.0) \$501,781
 - Ag. Vulnerability Assessors (7.0) \$417,606
 - GS Applications Analyst Progr I (3.0) \$196,110
 - Accounting Technician IV (1.0) \$39,789
 - Processing Assistant V (1.0) \$33,562
- E. Homeland Security & Sandia National Labs Grant
 - Applications Analyst Progr II (2.0) \$143,366
 - Database Administrator (1.0) \$90,495
 - Administrative Assistant I (1.0) \$36,447

Food and Drug - Pesticide Section

- 4 Budget Overrealized Receipts** (\$100,000) R
 Increase budgeted receipts associated with two of the Pesticide fees (Pesticide Ground Applicator License and Pesticide Registration Fee) implemented in FY 03-04.
- 5 Continue Operating Support Reductions** (\$25,000) NR
 Continue part of the non-recurring cuts for operating expenses of the Pesticide Formulation Lab.

Food Distribution

- 6 Shift Position to Receipt Support** (\$34,854) R
 Fund shift 1.0 position to federal funds.
 Processing Assistant IV (1.0) (\$34,854) -1.00

General Administration

- 7 Eliminate Vacant Position** (\$100,357) R
 Eliminate 1.0 vacant position.
 Deputy Secretary/Commissioner (1.0) (\$100,357) -1.00
- 8 Reduce Travel Expenditures Department-wide** (\$75,000) R
 Department-wide reductions in budgeted travel funds.

Marketing

- 9 Reduce Operating Support** (\$57,000) R
 Reduce line items for building maintenance, advertising, product promotions, supplies, and travel.
- 10 Receipt-Supported Positions**
 Allows for the establishment of 2.0 permanent, full-time positions supported by Marketing receipts. The positions will assist with maintenance and repair work at the Western NC and Piedmont Triad Farmers Markets, respectively.
 Machine Operator II (1.0) \$27,106
 Maintenance Mechanic I (1.0) \$30,239

Plant Industry

- 11 Receipt-Supported Positions**
 Allows for the establishment of the following 2.0 time-limited permanent appointments upon receipt of a Clean Water Management Trust Fund grant. No additional state funds will be expended on these positions. The positions will support the Plant Conservation Program.
 Environmental Specialist II (2.0) \$97,600

12 Receipt-Supported Positions

Allows for the establishment of the following 13.0 time-limited permanent appointments upon receipt of federal grant funds. No state funds will be expended on these positions. The dollar amounts are estimates only of salary and fringe benefits.

- A. USDA/APHIS/PPQ- Imported Fire Ant Cooperative Agreement
Plant Pest Inspector (1.0) \$37,100
- B. USDA - Agricultural Biotechnology Regulatory Program
Biotechnology Compliance Officer (2.0) \$106,088
- C. USDA Forest Service - Henlock Woody Adelgid
Agricultural Research Technician I (1.0) \$31,788
- D. USDA Forest Service - Weed Biocontrol Host Plant Testing
Agricultural Research Technician I (1.0) \$31,788
- E. USDA/APHIS - Sudden Oak Death
Program Manager (1.0) \$45,115
Agricultural Research Technician I (1.0) \$31,788
- F. USDA - Regulatory Plant Diagnostic Laboratory
Laboratory Manager (1.0) \$45,115
Laboratory Technician (1.0) \$30,653
- G. USDA - Export Certification
Export Certification Specialist (2.0) \$106,088
- H. USDA - Gypsy Nuth
Trapping Coordinator (1.0) \$47,666
Mechanic I (1.0) \$35,190

Public Affairs

13 Increase Funds for the Ag in the Classroom Program

Increase appropriation to the NC Farm Bureau for Ag in the Classroom Program \$75,000 NR

Research Stations

14 Reduce Unrealized Receipts in Research Stations

\$325,000 R

The Research Station farms have undergone a transition from production farming to research farming. Under production, all items were marketable as revenue enhancements but that is not the situation with research farming. These receipts have gone unrealized for at least the last five years. The Division's budget will be amended to more correctly budget receipts at a level that can be realized.

Veterinary Services

15 Veterinary Division Program Support

\$150,000 R

Increased funding is needed to address needs arising from increased responsibilities and unfunded mandates from the United States Department of Agriculture. Funds and additional staff are also needed to address foreign animal diseases, serve the swine and poultry industries in North Carolina as it relates to diagnostic testing, and address the lack of compliance with the animal ID program and the improper disposal of dead animals.

1.00

16 Receipt-Supported Positions

Allows for the establishment of the following 9.0 time-limited permanent appointments upon receipt of federal USDA/AFIS - US Animal Identification System grant funds. No state funds will be expended on these positions. The dollar amounts are estimates only of salary and fringe benefits.

Regional Coordinator	(3.0)	\$179,742
Animal Health Technician	(3.0)	\$134,310
Administrative Asst. I	(1.0)	\$44,770
Processing Assistant IV	(1.0)	\$38,409
Applications Programmer	(1.0)	\$57,408

Veterinary Services - Meat and Poultry Section

17 Reduce Operating Support

(\$20,000) R

Out operating expenditures that are under-utilized.

Budget Changes	\$50,538	R
	\$50,000	NR
Total Position Changes	-2.00	
Revised Total Budget	\$48,716,907	

Labor

GENERAL FUND

	FY 04-05	
Total Budget Approved 2003 Session	\$13,274,104	
Budget Changes		
Apprenticeship		
18 Apprenticeship Program Funds	\$355,226	NR
General Funds will partly restore funding for the Apprenticeship program that is no longer available through the Worker Training Trust Fund.		
Occupational Safety and Health		
19 Fund Shift 2.0 Positions	(\$84,261)	R
Fund shift 2.0 positions chosen by the Department to federal grant support.	-2.00	
20 Expand Consultative Services	\$93,251	R
Establish 2.0 Consultative Services positions focused on improving assistance to Hispanic employers and workers.	2.00	
Budget Changes	\$8,990	R
	\$355,226	NR
Total Position Changes	0.00	
Revised Total Budget	\$13,638,320	

Environment & Natural Resources

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$152,798,010

Budget Changes

(1.0) Administration

21 Eliminate Filled Positions		(\$74,466)	R
	Eliminate 1.5 filled Administrative Services positions.		
		-1.50	
	Personnel Officer (0.5) (\$42,529)		
	Help Desk Assistant (1.0) (\$31,937)		
22 Eliminate Vacant Position		(\$28,558)	R
	Eliminate 1.0 vacant Administrative Services position.		
		-1.00	
	Accounting Clerk IV (1.0) (\$28,558)		
23 Eliminate Regional Office Position		(\$30,167)	R
	Eliminate 1.0 filled Regional Office position.		
		-1.00	
	Office Assistant III (1.0) (\$30,167)		
24 Reduce Regional Office Rent		(\$80,956)	R
	Reduce the rent line item for the Winston-Salem Regional Office.		
25 Reduce Wetlands Restoration Operating Support		(\$7,689)	R
	Reduce rent line item for the Wetlands Restoration Program		
26 Reduce Operating Support for OCCA		(\$20,521)	R
	Reduce various operating line items for the Office of Conservation and Community Affairs.		
27 Expand Express Permitting Program		\$100,000	NR
	Expand the pilot program to two additional regional offices.		
	Establish 4.0 receipt-support positions that are effective July 1, 2004 and 4.0 General Fund-supported positions effective January 1, 2005.	4.00	
28 Expand One-Stop Permitting Program		\$100,000	R
	Expand the One-Stop Permitting Program statewide effective January 1, 2005. This program provides a single point of entry where businesses and citizens can seek assistance in identifying state and some federal environmental requirements and receive guidance throughout the permitting process.	4.00	

29 EEP Receipt-Supported Positions

Establish 11.0 permanent, full-time positions in the Ecosystem Enhancement Program. These positions will be supported by DOT receipts and will provide additional manpower needed to ensure compliance with mitigation regulations.

- Processing Assistant IV (1.0) \$26,769
- Processing Assistant V (1.0) \$28,669
- Environmental Specialist II (1.0) \$39,658
- Environmental Specialist III (5.0) \$213,780
- Applications Programmer I (1.0) \$50,246
- Environmental Supervisor III (2.0) \$109,208

30 OCCA Receipt-Supported Positions

Establish 2.0 permanent, full-time positions in the Office of Conservation and Community Affairs that will support the implementation of the Nature Preserves Act (G.S. 113A-164).

- A. DOT Receipts
 - Environmental Biologist II (1.0) \$39,759
 - Position will focus on assisting DOT staff with incorporating natural heritage data into DOT's environmental planning.
- B. VRC Receipts
 - Environmental Biologist II (1.0) \$39,759
 - This position will focus on assisting VRC with developing and implementing conservation plans for important wildlife habitats.

(2.0) Air Quality

31 Receipt-Supported Positions

Establish 2.0 permanent, full-time positions supported by Inspection and Maintenance Program receipts. These positions will be located in the Washington and Wilmington Regional Offices. Duties will include auditing the program for compliance and serving as the local liaison with testing and repair industries.

- Environmental Tech III (2.0) \$60,290

(2.0) Coastal Management

32 Reduce Operating Support

Reduce various operating line items within Coastal Management administration.

(\$24,750) R

(2.0) Environmental Health

33 Eliminate Vacant Position

Eliminate 1.0 vacant position in the On-Site Wastewater Section.

- Regional Soil Scientist (1.0) (\$58,804)

(\$58,804) R

-1.00

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34 Reduce Operating Support	(\$72,502)	R
Reduce various operating line items within Environmental Health, Public Water Supply, and Radiation Protection Sections.		
35 Expand Shellfish Sanitation Program	\$50,000	R
Provide additional support for the Shellfish Sanitation Section.		
36 State Match Funds	\$0	R
A transfer of \$292,696 from the Industrial Development Fund will provide a portion of the 20% match required to draw down federal funds for the Drinking Water State Revolving Fund.		
37 Receipt-Supported Positions		
Establish 1.5 permanent positions in the Radiation Protection Section (RPS).		
A. Tanning Receipts		
Health Physicist (0.5) \$21,378		
This position will focus on inspecting radioactive materials, x-ray equipment, and tanning facilities.		
B. Mammography Receipts		
Environmental Engineer II (1.0) \$54,856		
Position will provide engineering technical support to RPS.		
(2.0) Land Resources		
38 Reduce Operating Support	(\$85,356)	R
Reduce various operating and contract line items within Land Resources administration, Geodetic Survey Section, and Land Quality Section.		
39 Reduce Education Funds	(\$15,000)	R
Reduce Sediment Education funds.		
40 Fund Shift Position	(\$40,837)	R
Fund shift 1.0 position in the Land Quality Section to receipt support.		
	-1.00	
Environmental Tech V (1.0) (\$40,837)		
(2.0) Pollution Prevention		
41 Eliminate Filled Position	(\$26,848)	R
Eliminate 1.0 filled position.		
	-1.00	
Office Assistant III (1.0) (\$26,848)		
42 Reduce Equipment	(\$11,440)	R
Reduce computer equipment line item		

(2.0) Waste Management

43 Fund Shift Position	(\$38,370)	R
Fund shift 0.5 position to Brownfields grant support.		
	-0.50	
Environmental Program Manager II (0.5) (\$38,370)		
44 Eliminate Vacant Positions	(\$71,861)	R
Eliminate 1.5 vacant positions in the Solid Waste Section.		
	-1.50	
Environmental Chemist II (0.5) (\$35,067)		
Environmental Technician III (1.0) (\$36,794)		
45 Reduce Operating Support	(\$8,856)	R
Reduce operating support for travel.		
46 State Match Funds	\$1,000,000	NR
Provides the 10% state match required to draw down federal funds for the NC Superfund Cost Share Fund. This fund provides for the cleanup costs of National Priorities List sites.		

(2.0) Water Quality

47 Reduce Operating Support	(\$261,378)	R
Reduce various operating line items and the transfer to Regional Offices.		
48 Eliminate Vacant Position	(\$14,336)	R
Eliminate 0.5 vacant position.		
	-0.50	
Chemistry Tech I (0.5) (\$14,336)		
49 Fund Shift Position	(\$32,886)	R
Fund shift 1.0 position to grant support.		
	-1.00	
Hydrogeological Tech I (1.0) (\$32,886)		
50 State Match Funds	\$0	R
A transfer of \$483,984 from the Industrial Development Fund will provide a portion of the 20% match required to draw down federal funds for the Clean Water State Revolving Fund.		
51 Receipt-Supported Position		
Establish 1.0 full-time position supported by federal 319 Grant funds. This position will assist with handling grant invoices, tracking grant budgets, organizing and maintaining files, maintaining MCA paperwork and other duties. DENR has received 319 funding for the past 14 years and expects to continue receiving funds in future years.		
Administrative Assistant I (1.0) \$27,094		

(2.0) Water Resources

52 Reduce USGS Cooperative Agreement Funds	(\$25,871)	R
Reduce funds for the cooperative agreement with USGS for monitors.		
53 River Basin Water Supply Initiative	\$150,000	R
The outcome of this program will be 50-year water supply plans for each of North Carolina's 17 major river basins.		
	\$33,254	NR
	3.00	
54 Establish and Support Position	\$80,523	R
Establish 1.0 position in the Water Projects Section and provide corresponding operating support.		
	1.00	
Environmental Engineer III (1.0) \$80,523		

(3.0) Aquariums

55 Receipt-Supported Positions		
Allows for the establishment of the following position. Position will be funded from admission receipts.		
Computing Consultant I (1.0) \$44,428		
56 Reduce Operating Support	(\$50,000)	R
Reduce various operating line items within the Division of Aquariums.		

(3.0) Environmental Education

57 Reduce Operating Support	(\$16,882)	R
Reduce various operating line items within the Office of Environmental Education.		

(3.0) Forest Resources

58 Establish Positions	\$105,101	R
Funds will provide the State portion of the cost of 4.0 new positions and related operating expenses.		
	4.00	
Assistant County Ranger-Greene	(1.0) \$34,584	
Assistant County Ranger-Anson	(1.0) \$31,924	
Assistant County Ranger-Carroll	(1.0) \$13,136	
Forest Fire Equipment Operator-Haywood	(1.0) \$25,457	
59 Receipt-Supported Positions		
Allows for the establishment of the following 7 time-limited permanent appointments upon receipt of federal grant funds. No state funds will be expended on these positions.		
Application Analyst Prog. II	(1.0) \$ 61,426	
Computing Consultant III	(2.0) \$103,820	
Forester III	(4.0) \$174,428	

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60 Reduce Operating			
Reduce equipment line items within the Division of Forest Resources.		(\$317,492)	R
61 Provide Funds for Equipment			
Funds will be provided for the Division of Forest Resources to purchase slip units for fire fighting.		\$15,000	NR
(3.0) Marine Fisheries			
62 Reduce Operating Support			
Reduce various operating line items within the Division of Marine Fisheries.		(\$113,661)	R
63 Eliminate Position			
Eliminate a Marine Fisheries Technician II position.		(\$31,765)	R
		-1.00	
64 Eliminate Vacant Position			
Eliminate a vacant Marine Fisheries Enforcement Officer II position.		(\$38,193)	R
		-1.00	
65 Receipt-Supported Positions			
Allows for the establishment of the following position. Position will be funded from license receipts.			
Data Processing Assistant II (1.0) \$26,389			
66 Funds for Recreational Fishing License			
Provides \$450,000 to the Division for information system upgrades and \$300,000 to the Board of Trustees to implement the provisions of the Saltwater Fishing License bill. These funds are contingent upon the passage of House Bill 831.		\$750,000	NR
(3.0) Museum of Natural Sciences			
67 Receipt-Supported Positions			
Allows for the establishment of the following 5 time-limited positions. Positions will be funded from Science of Learning Science Center Grants.			
Natural Science Curators (3.0) \$110,178			
Computer Consultant II (1.0) \$42,756			
Nat. Science Museum Prg. Chief (1.0) \$42,756			
68 Increase Grassroots Funding			
Increase funding to the Grassroots Science Museums.		\$296,000	R
69 Reduce Operating Support			
Reduce various operating line items within the Museum of Natural Sciences.		(\$134,235)	R

(3.0) Parks and Recreation

70 Center City Park

Funds shall be appropriated to Action Greensboro for the design and construction of Center City Park.

\$500,000 NR

71 Reduce Funding

Reduce operating support to the Division of Parks and Recreation. This cut will reduce funds available for seasonal employees, not including life guards.

(\$246,203) R

(3.0) Soil and Water Conservation

72 Reduce Funding

Reduce funding to the Division of Soil and Water Conservation. Reductions will be at the discretion of the Division, with no more than a \$25,000 cut to Ag Cost Share, no cut to county matching grants, and no cut to supervisor travel.

(\$100,000) R

73 Restore Position

Restore the District 7 Soil and Water Conservation Regional Coordinator position.

\$41,749 R

1.00

(3.0) Zoo

74 Receipt-Supported Positions

Allows for the establishment of the following 10-month positions. Positions will be funded from admission receipts.

Vehicle Operator II (1.0) \$19,940
 Cashier I (1.0) \$21,100
 Processing Asst. III (1.0) \$21,100

75 Reduce Operating Support

Reduce funds available for tort claims and motorized vehicles.

(\$86,847) R

(4.0) Reserves & Transfers

76 Restore Funding

Increase funds to Partnership for the Sounds to return to 2001-02 funding level.

\$52,760 R

77 Reduce Fund Balance

Reduce fund balance for Pamlico County project by 50%

(\$83,000) NR

(4.0) Reserves and Transfers

78 Reduce Water Quality Workgroup

Reduce transfer to the Water Quality Workgroup by 3%

(\$2,700) R

(6.0) Wildlife Resources Commission

79 Receipt-Supported Positions

Allows for the establishment of the following 5 positions. Positions will be funded from Wildlife Commission License & Vessel receipts, U.S. Coast Guard.

Wildlife Enforcement Officer (5.0) \$207,845

80 Receipt-Supported Positions

Allows for the establishment of the following 3 positions. Positions will be funded from the Wildlife Fund.

Facility Mechanical Engineer I (1.0) \$62,441

Safety Officer III (1.0) \$49,799

Facility Maintenance Coord. II (1.0) \$38,052

Budget Changes	(\$1,293,297)	R
	\$2,315,254	NR
Total Position Changes		5.00
Revised Total Budget	\$153,819,967	

Commerce

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

\$34,336,301

Budget Changes

ABC Commission

81 Receipt-Supported Positions

Allows for the establishment of 4.0 permanent, full-time positions supported by ABC Commission receipts paid by the local ABC Boards. The dollar amounts are estimates of salary only. The trainer positions will be in the Education and Training Division focused on providing alcohol education to students, parents, industry members, civic groups, and the general public.

Administrative Aest. I (4.0) \$145,788

Air Transportation

82 Reduce Operating Support

(\$52,328) R

Reduce line item for rent and lease of facilities and the line item for gasoline.

Business & Industry

83 Expand Business ServiCenter

\$525,000 R

This item establishes a Business ServiCenter, whose functions include a Small Business Ombudsman and the responsibilities of the Business License Information Office previously housed in the Secretary of State's Office. This item authorizes the establishment of up to 10.0 positions.

\$8,800 NR

10.00

Commerce Finance Center

84 Reduce Fund Balance

(\$2,211,667) NR

Reduce the cash balance of the Industrial Development Fund.

85 Reduce Operating Support

(\$12,924) R

Reduce travel, advertising, and registration fees.

Community Assistance

86 Eliminate Vacant Position

(\$47,145) R

Eliminate vacant Community Development Planner position.

-1.00

Conference Report on the Continuation, Capital and Expansion Budgets

FY 04-05

Industrial Commission

87 Budget Over-realized Receipts (\$109,046) R
 Budget over-realized receipts for the Industrial Commission and offset state appropriations for the same amount.

International Trade

88 Reduce Operating Support (\$25,000) R
 Reduce various line items within the Division of International Trade.

Management Information Systems

89 Reduce Operating Support (\$20,660) R
 Reduce travel, equipment, and data service line items.

Policy, Research and Strategic Planning

90 Economic Development Information System \$375,000 NR
 To begin the development of the North Carolina Economic Development Information System (NC EDIS), a comprehensive and customizable automated system that will house the core national, state, regional, county and municipal data necessary to monitor economic trends, identify target sectors and clusters, supply marketing profiles to clients, provide maps and data to planners and workforce analysts, and regularly brief policy officials in the Executive Branch and General Assembly on economic threats and opportunities facing the state.

91 Reduce Operating Support (\$10,814) R
 Reduce intern, temporary help, and miscellaneous contracts line items.

Science and Technology

92 Reduce Operating Support (\$2,527) R
 Reduce the contractual services line item

Travel & Tourism

93 Expand Heritage Tourism \$100,000 R
 Funds for a position and operating support at two new Heritage Tourism sites, in Rutherford and Ashe counties. 2.00

94 Funds for Film Commission \$300,000 NR
 Provide funds for the Charlotte Regional Film Commission.

95 Increase Funds for Marketing \$850,000 NR
 Provide additional funds to the Division of Travel & Tourism for marketing efforts.

Commerce

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Utilities Commission

96 Receipt-Supported Position

Allows for the establishment of a permanent, full-time position supported by Utilities Commission fee receipts. Duties will include handling security and spam issues on PCs and servers.

Computer Systems Analyst II (1.0) \$61,000

Wanchese Seafood Industrial Park

97 Reduce Carry Forward Fund Balance

Reduce the cash balance from the Wanchese Seafood Industrial Park Oregon Inlet Project.

(\$300,000) NR

Welcome Centers

98 Fund New Welcome Center

A new Welcome Center on I-26 opened in August 2003, but no funds were appropriated for operating expenses. The center's current operating budget is being supported with a one-time grant from the Appalachian Regional Commission. This action will provide the necessary funds to continue operations.

\$181,048 R

5.00

Budget Changes

\$525,604 R

(\$977,867) NR

Total Position Changes

16.00

Revised Total Budget

\$33,884,038

Commerce - State Aid

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$11,222,085
<hr/>	
Budget Changes	
Regional Economic Development Partnerships	
99 Fund Vision Plans	
Funds will be allocated to each of the seven (7) regional economic development partnerships to develop, implement, or develop and implement strategic economic development plans.	\$1,750,000 NR
100 Advanced Vehicle Research Center	
Funds to be appropriated to the Northeast Regional Economic Development Partnership for the Advanced Vehicle Research Center to build a full transportation testing center.	\$200,000 NR
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Budget Changes	\$1,950,000 NR
Total Position Changes	
Revised Total Budget	\$13,172,085
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N.C. Biotechnology Center

GENERAL FUND

	FY 04-05	
Total Budget Approved 2003 Session	\$5,883,395	
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Budget Changes		
NC Biotechnology Center		
101 Increase Funding for the NC Biotechnology Center	\$3,200,000	R
Support New Jobs Across North Carolina: A Strategic Plan for Growing the Economy Statewide through Biotechnology. The four priorities are:	\$1,800,000	NR
- Replenish the Economic Development Venture Capital Investment Fund;		
- University Research Grants;		
- Satellite office support, including programmatic, administrative costs and personnel; and		
- Strengthen K-12 education and workforce training programs.		
<hr/>		
Budget Changes	\$3,200,000	R
	\$1,800,000	NR
Total Position Changes		
Revised Total Budget	\$10,883,395	

Rural Economic Development Center

GENERAL FUND

		FY 04-05	
Total Budget Approved 2003 Session		\$4,658,607	
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Budget Changes			
Rural Economic Development Center			
102 Rural Entrepreneurship		\$144,000	R
Provide funding for the Rural Center's Institute for Rural Entrepreneurship, including personnel and administrative costs.			
103 Increase Research and Demonstration Grants		\$1,000,000	NR
Provide additional appropriation for Research and Demonstration Grant Program allocated to the e-NC Authority for Business and Technology Telecenters.			
<hr/>			
Budget Changes		\$144,000	R
		\$1,000,000	NR
Total Position Changes			
Revised Total Budget		\$5,802,607	
<hr/>			

JUSTICE
&
PUBLIC SAFETY
Section I

Judicial

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$311,499,694

Budget Changes

1 Interpreters in Courtrooms	\$1,000,000	R
Provides \$1 million for interpretation services in court proceedings. Allows ACC to use up to \$110,000 of this appropriation to establish two full-time interpreter positions for high-volume districts.	200	
Custody Mediation		
2 Expand Custody Mediation	\$50,000	R
Provides \$50,000 to expand the Custody Mediation program into districts identified by the ACC as top priority.		

Department-Wide

3 Response to Domestic Violence

\$1,161,406 R
 \$385,220 NR
 20.00

Appropriates \$1,546,626 to the Judicial Department to enhance the courts' response to domestic violence problems, to assist with growth in methamphetamine caseload statewide, and to assist the court system to catch up with increasing caseloads due to new criminal penalty legislation over the last three years when no new positions have been authorized. Up to \$1,304,626 of these funds shall be used to create the following positions effective December 1, 2004:

- Three Superior Court Judges. \$358,900 R and \$33,160 NR
 - One Special Superior Court Judge
 - One Resident Superior Court Judge in District 3B
 - One Resident Superior Court Judge in District 15B
 - (any additional funds not needed to support these positions may be used to increase capacity of emergency judges)
- Four District Court Judges. \$296,088 R and \$44,696 NR
 - One each in Districts 5, 17B, 21, and 29
- Eleven Assistant District Attorneys. \$445,060 R and \$55,040 NR
 - One each in the following districts: 1, 7, 9, 10, 13, 16B, 18, 25, 27B, 28, and 30
- Two roving Official Court Reporters. \$61,358 R and \$10,324 NR

These funds shall also be used for necessary enhancements to the Automated Court Information System (ACIS) to track domestic violence offenders (\$132,000 NR) and to provide training to judicial officials throughout the State on domestic violence matters (\$90,000 NR).

\$20,000 NR of these funds is placed in a non-reverting reserve for the Sentencing and Policy Advisory Commission to support the two-year study of misdemeanor offense classifications required under HB 1354. These funds may be used for contractual research and policy development consultation.

4 Establish Receipt-Supported Positions

The Administrative Office of the Courts has received federal grants from the Governor's Crime Commission to create the following time-limited positions. These positions will expire when their grant funding runs out.

Position		Salary
Supervised Visitation Case Manager	--	\$21,600
Latino Victim Witness Assistant	--	\$30,000
Victim Witness Legal Assistant	--	\$32,000
Investigator	--	\$34,000
Victim Witness Legal Ass't (2 pos)	--	\$26,000
Youth Team Coordinator	--	\$30,000
Deputy Clerk of Court (2 pos)	--	\$22,565
Drug Court Coordinator	--	\$39,000
Drug Court Case Manager	--	\$19,500
Legal Assistant	--	\$25,000
Processing Assistant	--	\$32,000

Dispute Settlement Centers

5 Increase Mediation Center Funding

\$35,000 R

Appropriates \$35,000 to two community mediation programs, Foothills and Blue Ridge, currently experiencing difficulties in operation due to regional expansions. The money is divided equally between the two centers: \$17,500 to each. Foothills covers Polk, Rutherford, and McDowell Counties; Blue Ridge provides services in Alleghany, Ashe, Avery, Madison, Mitchell, Watauga, Wilkes, Yadkin, and Yancey Counties.

District Attorney

6 Add 2 DA Legal Assistants in District 4

\$83,600 R
\$7,496 NR
2.00

Adds two District Attorney Legal Assistants in District 4, comprising Sampson, Duplin, Jones, and Onslow Counties. These legal assistants have been performing domestic violence related work on a federal grant which is about to expire.

7 District Attorney Investigator--District 16A

\$24,381 R
\$4,842 NR
1.00

Establishes a new District Attorney Investigator position in Prosecutorial District 16A, comprising Scotland and Hoke Counties, effective January 1, 2005.

8 Four Assistant District Attorneys

\$178,024 R
\$22,016 NR
4.00

Adds four new Assistant District Attorney positions to support growing demands on the court system including the prosecution of methamphetamine cases. One position will be assigned to District 2 (Tyrrell, Hyde, Beaufort, Washington, and Martin Counties) and three in District 26 (Mecklenburg). These positions are effective July 1, 2004.

District Court

9 New Magistrates \$55,650 R
 Provides funds for new magistrate positions in Davie and Stanley Counties effective October 1, 2004. \$10,254 NR
 2.00

Drug Treatment Court

10 Sustain Drug Treatment Courts \$279,200 R
 Appropriates \$279,200 to maintain operations of three drug treatment court programs.
 Durham County -- \$67,200 for Family Drug Court
 Mecklenburg County -- \$162,000 for Youth Drug Court
 Randolph County -- \$50,000 for Adult Drug Treatment Court

Equipment and Supply

11 Replace Analog Tape Recorders in District Court \$600,000 NR
 Replaces out dated tape recording machines in the District Court with digital recording equipment to ensure that all trial court recording requirements are met.

12 Courthouse Telephone Systems \$408,000 NR
 Funds the installation of telephone systems in new courthouses in Haywood and Union Counties, and replacement of the out-dated, inadequate telephone system in the Craven County courthouse, the ACC's top replacement priority.

Family Court

13 Expand Family Court \$150,000 R
 Appropriates \$150,000 to create a new Family Court Program in a judicial district to be determined by the Administrative Office of the Courts, effective January 1, 2005, from the following list: Districts 3A, 10, 19B, 21, 23, 28.

Guardian ad Litem

14 Increase Guardian ad Litem Attorney Fees \$550,000 R
 Provides additional funds to raise the average compensation of lawyers representing children from \$35 per hour to \$45 per hour.

Office-Clerks of Superior Court

15 Add 40 New Deputy Clerks \$980,600 R
 Appropriates funds to allow the ACC to hire 40 new deputy clerks of court starting October 1. These positions will be allocated by the Director of ACC. \$99,000 NR
 40.00

Sentencing Commission

16 Juvenile Justice Evaluation Position	\$64,000	R
Creates a research analyst position at the Sentencing and Policy Advisory Commission to produce regular reports on recidivism of juvenile offenders in the Department of Juvenile Justice and Delinquency Prevention, and to assist DJJDP in evaluating juvenile programs.	1.00	

Superior Court

17 AOC/SBI Videoconferencing Pilot	\$25,640	R
Provides resources to equip courthouses in Judicial District 27B, Cleveland and Lincoln Counties, to communicate with the SBI crime lab for cases requiring lab analysts to testify.	\$67,589	NR

Technology Services

18 Complete NC AWARE Warrant Repository	\$500,000	NR
Provides funds to continue work on the statewide warrant repository system. This system provides access to court information for law enforcement agencies across the state, and has received all previous funding from federal sources.		

Budget Changes	\$4,637,501	R
	\$2,104,417	NR
Total Position Changes	72.00	
Revised Total Budget	\$318,241,612	

Judicial - Indigent Defense

GENERAL FUND

		FY 04-05	
Total Budget Approved 2003 Session			\$71,019,451
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Budget Changes			
Indigent Persons Attorney Fee Fund			
19 Reduce Indigent Defense Backlog		\$2,500,000	R
Appropriates \$8.5 million non-recurring to pay off the backlog of payments due to attorneys for legal work performed in 2003-04; the backlog is currently projected to be \$10 million by the end of the fiscal year.		\$8,500,000	NR
Appropriates \$2.5 million recurring to help the Office of Indigent Defense Services keep current for 2004-05. These funds will also be used to address needs identified for increasing numbers of methamphetamine charges, and to assist in the opening of a Public Defender office in District 1.			
<hr/>			
Budget Changes		\$2,500,000	R
		\$8,500,000	NR
Total Position Changes			
Revised Total Budget			\$82,019,451
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Justice

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

\$71,459,312

Budget Changes

20 Management Flexibility Reserve	Governor's Recommendation: The department will identify \$333,333 in nonrecurring salary and nonsalary line item reductions.	(\$333,333)	NR
21 Reduce Non-Salary Line Items	Reduce a total of \$100,000 in the budgeted amounts for Communication/Data Pro and Equipment in Legal Services and General Administration.	(\$100,000)	R
22 NC LEAF Pass-Through Funds	The recurring budget for the North Carolina Legal Education Assistance Foundation (NC LEAF) is increased by \$71,000, for a total budget of \$271,000.	\$71,000	R
Criminal Justice Training & Standards			
23 Domestic Violence Training Positions	Adds a Criminal Justice Training Coordinator I position to the Criminal Justice Training Division and a Criminal Justice Specialist Investigator II to the Sheriff Standards Division to develop and oversee law enforcement training on domestic violence situations.	\$121,756 \$10,000 2.00	R NR
Law Enforcement - SBI			
24 Reduce Vehicle Replacement Budget	One-time reduction to the line item budget for the purchase of Equipment (Autos, Trucks, Buses), Account 534541. The current SBI budget for the purchase of automobiles is \$1,041,518.	(\$175,000)	NR
25 AOC/SBI Videoconferencing Pilot	Provides resources for the SBI to implement a pilot project with the Administrative Office of the Courts to enable SBI lab personnel to testify in court proceedings through a remote, interactive connection.	\$3,000 \$45,500	R NR
26 SBI Methamphetamine Response Team	Adds 6 sworn laboratory positions, 8 sworn agent positions, and related equipment to the SBI and increases the lease for additional space at the western Crime Laboratory to combat illegal methamphetamine lab operations in North Carolina. Positions are effective Jan. 1.	\$510,703 \$350,841 14.00	R NR

27 Reduce Backlog of Untested Rape Kits

\$250,000 R

\$250,000 is provided for the Department to out source backlogged "no-suspect" rape kits. Funds may be used for the screening and/or DNA analysis of bodily fluids. In addition to the funds appropriated, the Department shall maximize the use of federal grant funds to expedite the elimination of the backlog.

28 Establish Receipt-Supported Positions

The Department may establish up to 11 receipt-supported positions using receipts from background checks for adult care home direct service providers. Positions, salary and benefits are as follows:

- 7 Processing Assistant IVs: \$31,787
- 3 Processing Assistant Vs: \$41,995
- 1 Fingerprint Tech Supervisor: \$47,365

Budget Changes	\$856,459	R
	(\$101,992)	NR
Total Position Changes		16.00
Revised Total Budget	\$72,213,779	

Juvenile Justice & Delinquency Prevention

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

\$130,585,498

Budget Changes

Administrative Services

29 MIS Staffing Needs for NC-JOIN	\$159,376	R
Provide four (4) positions, effective the following dates, and computer equipment to further establish an automated state-wide juvenile information system. The Governor recommended five (5) positions.	\$112,011	NR
	4.00	
<p>Computing Consultant (74), 01/01/2005 Computing Consultant (74), 01/01/2005 Applications Programmer II (74), 10/01/04 IT Project Manager II (81), 10/01/04</p>		

Department-Wide

30 Establish Additional Staff Development Positions	\$101,899	R
Funds are provided to add 2 new Staff Development Specialist III positions, Pay Grade 71, effective July 2004. These positions will be used to correct deficiencies identified in the 2003 State Auditor report. The specialists will develop and implement a training program for direct care staff in Youth Development Centers. The Governor recommended four trainers.	\$7,000	NR
	2.00	

Intervention/Prevention Services

31 Additional JCPC Funding	\$500,000	R
The continuation budget for the Juvenile Crime Prevention Councils (JCPC) is increased by \$500,000 R for a competitive grant award process to provide alternative community-based diversion and dispositional programs for juveniles who would otherwise be committed to youth development centers. The Governor's budget requested \$662,462 to be divided among all 100 JCPCs for diversion and disposition resources. However, the resulting individual county allocations would have been insufficient for providing alternatives to commitments.		

Special Initiatives

32 Additional Funding for Multipurpose Group Homes	\$133,000	R
Provide funding to offset increases in the operating costs of the six (6) state multipurpose group homes.		

33 Communities in Schools	Reduce the continuation budget by \$75,000. CIS will continue to receive \$1,080,000 in pass-through funding from DJJDP, DPI, and the Governor's Office. This reduction is to be taken from the central office administration budget and not from funding provided to local CIS programs.	(\$75,000) R
34 Project Challenge	The continuation budget is increased by \$10,000 for additional funding to Project Challenge. Project Challenge serves court-involved juveniles in 8 judicial districts.	\$10,000 R
35 Project P.R.I.D.E.	Pass-through funds are provided for Project P.R.I.D.E. to continue operating a day reporting center and an extended day reporting center for adjudicated and diverted juveniles in Randolph County.	\$140,000 R
36 Juvenile Assessment Center	The continuation budget is increased by \$10,000 to provide additional funds to the Cumberland County Juvenile Assessment Center to provide diagnostic, referral, and case management services to delinquent, undisciplined, and at-risk juveniles.	\$10,000 R
37 Eckerd Youth Alternatives	The continuation budget to purchase Eckerd Camp services is reduced by \$750,000. This reduction offsets ADM funding to be provided directly to Eckerd from the Department of Public Instruction to cover the costs of educational services provided to juveniles.	(\$750,000) R
Youth Development Centers		
38 Samarkand HEART and BEST Programs	<p>Samarkand YDC is the only facility in the NC juvenile system designated for female offenders. DJJDP has been operating two intensive therapeutic treatment models at Samarkand using federal grant funds. These federal RSAT funds (Residential Substance Abuse Treatment) will terminate June 30, 2004. This funding is authorized to continue the therapeutic programs. Six positions are reduced from the Governor's recommendation.</p> <p>Positions funded are: 15 Youth Services Behavioral Specialists 4 Substance Abuse Counselor I's 3 Substance Abuse Counselor II's 1 Office Asst. 1 Processing Asst. 1 Social Worker II 2 Social Worker III's 3 Educational Development Asst's. 1 Human Services Coordinator I</p>	\$1,385,783 R 31,000

Budget Changes	\$1,615,058	R
	\$119,011	NR
Total Position Changes	37.00	
Revised Total Budget	\$132,319,567	

Total Budget Approved 2003 Session

\$959,947,282

Budget Changes

Alcohol and Chemical Dependency

39 Reduce Operating Budget Line Items (\$115,000) R
 Governor's Recommendation: The line item budget for the Division is reduced to more closely reflect expenditure patterns for various line items. These are Leased Vehicles, Contractual Employees and Hospital Medical Services.

Community Corrections

40 Probation/Parole Operating Budget (\$300,000) R
 Reduce the following accounts by the indicated amounts: Transportation- Ground-In State, Account 532714, by \$20,000; Lodging-In State, Account 532721, by \$10,000; Meals-In State, Account 532724, by \$10,000; General Office Supplies, Account 533110, by \$42,000; Office Equipment, Account 534521, by \$100,000; Computer Equipment, Account 534528, by \$100,000; and Custody Security Equipment, Account 534529, by \$18,000.

41 Women At Risk \$25,000 R
 Pass-through funds to Western Carolinians for Criminal Justice for the operation of the Women At Risk program are increased by \$25,000.

42 Criminal Justice Partnership Program \$38,056 R
\$6,000 NR
 Funding is added for a new program in Rutherford County. Program funds of \$38,056 will be allocated to Rutherford County to begin a program on January 1, 2005. This amount is consistent with the current distribution of implementation grants under CJPP. The Division of Community Corrections will receive \$6,000 in nonrecurring funds to provide technical assistance for program start-up.

Departmental Management

43 Reduce Central Management Line Item Budget (\$229,100) R
 Governor's Recommendation: The departmental management line item budget is reduced to more closely reflect expenditure patterns. Items reduced include Administrative Services, Motor Vehicle Insurance, Maintenance Agreements, and Data Processing Supplies.

44 Central Engineering Line Item Budget	(\$45,000)	R
<p>Governor's Recommendations: The line items budget for Central Engineering is reduced to more closely reflect expenditure patterns. Budget areas to be reduced include Structure-Electrical contracts, Carpentry and Hardware Supplies, Electricity, and Heating and Gas.</p>		
Department-Wide		
45 Management Flexibility Reserves	(\$13,239,260)	NR
<p>Governor's Recommendation: DOC is authorized to identify additional reductions in salary and non-salary line items during FY 2004-05.</p>		
Post-Release Supervision/Parole Commission		
46 Parole Commission	(\$55,136)	R
<p>Governor's Recommendation: Eliminate one vacant position (#60223).</p>		
	-1.00	
Prisons		
47 Reduce Division of Prisons Line item Budget	(\$950,000)	R
<p>Governor's Recommendation: The budget for certain line items, such as carpentry and hardware supplies, travel, and telephone service, is reduced to more closely reflect expenditures.</p>		
48 Additional Line Item Reductions	(\$600,000)	R
<p>An additional \$600,000 can be reduced in the Division of Prisons operating budget in the following areas: Voice Communication Equipment, telephone service, travel and per-diem costs, and other administrative supplies.</p>		
49 Jail Misdemeanants	(\$2,000,000)	R
<p>Governor's Recommendation: Reduce continuation budget of \$13.2 million by \$2 million dollars to reflect actual payments to counties. DOC pays counties \$18 a day to house jail misdemeanants sentenced to 30 days or more. Expenditures have been reduced partially due to increased continuation funding authorized by the General Assembly in 2003.</p>		
50 Conversion of Contractual MIS Position	(\$55,000)	R
<p>Governor's Recommendation: Converting a contractual MIS position assigned to prisons to a permanent position will save \$55,000 in contract costs.</p>		
	1.00	

FY 04-05

51 Warren Correctional Center

DOC will open a new 168 bed maximum security wing at Warren in July and begin transferring inmates August 2004. The recurring funds are to operate the new wing. The non-recurring funds are primarily to restart inmate education at Warren through Vance Community College. The non-recurring amount recommended by the Governor -- \$439,661 including \$406,500 for community colleges-- is reduced by \$91,000 due to delayed start up time for community college programs. The Community College system will pick up costs starting in 2005-06.

\$1,596,334 R
\$348,661 NR
48.00

52 Maury Correctional Center

Governor's Recommendation: Maury is one of two 1,000 bed close custody prisons currently under construction. Current projected completion date is November 2005. This assumes a 22 month construction schedule, the same amount of time required for recently completed close custody prisons. The recurring funds are to establish 56 startup positions, a reduction of 50 from the Governor's recommendation. These 56 positions are the key staff needed to prepare the facility for opening. The other 50 positions will be hired in 2005-06 rather than 2004-05. This shift in schedule and hiring reduces the Governor's recurring recommendation by \$127,000. The non-recurring cost is primarily to purchase trucks, vans and buses.

\$452,160 R
\$502,400 NR
56.00

53 Bertie Correctional Center

Startup funds for the new 1,000 bed prison under construction in Bertie County. Recurring funds are to establish nine key positions to prepare for opening of prison in February, 2006; non-recurring funds are primarily to purchase buses. The Governor's recommendation to purchase trucks and vans is not funded since there should be adequate time to order and receive delivery of trucks and vans after the 2005 long session.

\$63,388 R
\$132,000 NR
9.00

54 Convert Temporary Prison Beds to Permanent

\$961,438 R

DOC has increased the expanded operating capacity at a number of prisons to accommodate the growth in inmate population. DOC has been operating these beds as temporary bed capacity since no additional staff has been funded. The following positions are to be funded to allow for increasing the official bed capacity by 754 beds:

31.00

- Black Mountain CC/V: 1 Correctional Case Manager
- Bladen CC: 2 Correctional Officers
- Buncombe CC: 1 Corr. Officer
- Caldwell CC: 1 Corr. Officer; 1 Case Mgr.
- Carteret CC: 2 Corr. Officers
- Dan River P/W: 2 Corr. Officers
- Duplin CC: 2 Corr. Officers
- Greene CC: 2 Corr. Officers
- Haywood CC: 1 Corr. Case Manager
- Lunberton CC: 2 Corr. Case Managers
- Neuse CC: 1 Corr. Sgt.; 9 Corr. Officers and 2 Corr. Case Mgrs.
- Tyrrell P/W: 2 Corr. Officers

55 Increase Prison Bed Capacity

\$1,531,313 R

Funding is authorized to double cell inmates at a prison to be determined by the Secretary of Correction. The anticipated increase in bed operating capacity is 336 beds. The funding assures hiring and equipment installation would be completed by February, 05. Annualized cost would be \$2,721,066. The non-recurring funds are for kitchen expansion, inmate beds and lockers, and startup costs for participation by inmates in new community college courses.

\$255,723 NR
50.00

56 Reserve to Increase Bed Capacity at Pamlico CC

\$216,126 NR

One-time funding is placed in a reserve. The funding can be used for one-time purchases needed to prepare Pamlico Correctional Center to double cell two of three tiers in the housing units. These changes would increase bed capacity by 336. The reserve funds cannot be spent until an agreement has been reached between DOC, DENR and the Bay River Metro Sewage Authority to provide adequate sewer/wastewater capacity for the additional inmates and staff. If an agreement is reached, DOC is also authorized to establish 50 new positions by reallocating vacant positions, after consultation with Appropriations Committees.

57 Funding for Our Children's Place

\$150,000 NR

Pass-through funding shall be provided to "Our Children's Place", a non-profit organization that will develop treatment programs for non-violent incarcerated female offenders and their at-risk children. The funding is one time to allow for completion of a major portion of planning and design.

58 Establish Receipt-Supported Positions

The Department may establish nine time-limited receipt-supported positions to operate the new Security Threat Group (gangs) Unit. The funding is a two year Crime Commission Grant. The position titles and salary and benefit costs are:

Correctional Program Director II	\$48,942
Correctional Programs Supervisor	\$38,259
Correctional Programs Supervisor	\$38,259
Staff Psychologist II	\$51,844
Correctional Behavioral Specialist II	\$36,620
Correctional Behavioral Specialist II	\$36,620
Registered Nurse	\$40,594
Registered Nurse	\$40,594
Office Assistant III	\$22,739

Budget Changes	\$318,453	R
	(\$11,628,350)	NR
Total Position Changes		194.00
Revised Total Budget	\$948,637,385	

Crime Control and Public Safety

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session **\$28,139,010**

Budget Changes

Administration

59 Administrative Costs (\$225,000) R

The continuation budget for the Department's administration is adjusted to reflect an increase in the receipts transferred from the State Highway Patrol Division - Budget Code 24960. The increase will offset central administrative costs associated with the 389 Motor Carrier Enforcement positions added to the Division. The Department is directed to identify cost savings within Budget Code 24960 to offset the transfer of these funds to Budget Code 14900. These cost savings represent less than one percent of the State Highway Patrol Division's budget.

Alcohol Law Enforcement

60 Equipment Budget (\$77,037) R

Governor's recommendation: Reduce the equipment budget in ALE.

Boxing Commission

61 Eliminate Boxing Commission (\$134,449) R

The Boxing Commission is abolished and the continuation budget is eliminated. The duties of the Boxing Commission are transferred to the Alcohol Law Enforcement Division.

-200

Expenditures \$174,449
 Revenue (\$40,000)
 Net G.F. \$134,449

Butner Public Safety

62 Equipment Budget (\$26,977) R

Governor's recommendation: Reduce the budget for Equipment (Autos, Trucks, Buses) in Butner Public Safety.

Criminal Justice Information Network

63 Establish Administrative Assistant Position \$43,595 R

Funding is provided to establish the position of CJIN Administrative Assistant III, PG 67, to perform administrative duties in support of the CJIN Board and Executive Director.

100

64 VIPER

Funding is provided to expand VIPER (Voice Interoperability Project for Emergency Responders), a planned state-wide, voice trunked radio communications system for emergency responders.

\$500,000 NR

Emergency Management

65 Reduce Various Budget Line Items

Governor's recommendation: Reduce the operating budget of Emergency Management for the accounts that follow by the following amounts.

- Travel -- \$6,253
- Printing -- \$4,900
- Other Employee Educational Expenses -- \$1,950
- Scientific Supplies -- \$7,000
- Equipment -- \$39,955
- Library and Learning Resources -- \$4,500
- Computer Software -- \$4,500
- Dues and Subscriptions -- \$1,000

(\$70,058) R

66 Disaster Recovery Staff

Funding is provided to convert five (5) temporary staff positions in the Hazard Mitigation and Public Assistance Sections to permanent positions. This will decrease staff turnover problems and enable the Division to create a cadre of permanent staff with institutional program knowledge and grant management expertise needed for disaster response and recovery efforts:

- Community Dev Specialist I; PG 70; (4 positions)
- Community Dev Specialist II; PG 74 (1 position)

The Governor requested 6 positions for this purpose for a total cost of \$251,577.

\$211,523 R

5.00

Governor's Crime Commission

67 Convert One Position to Receipt Support

Governor's recommendation: Convert funding for one position in the Governor's Crime Commission to receipt support.

(\$27,930) R

68 Receipt-supported Position

Establish one receipt-supported position using federal Juvenile Justice Delinquency Prevention block grant funds. The position shall be time-limited, not to exceed 24 months, with total annual salary and benefit costs not to exceed \$49,799.

- Community Development Specialist I, PG 70

Law Enforcement Support Services

69 Reduce Various Operating Budget Line Items (\$6,040) R
 Governor's recommendation: Reduce the line item budgets in LESS for Purchased Services by \$3,020 and Supplies by \$3,020.

NC National Guard

70 Caldwell County Armory \$975,000 NR
 Pass-through funding is provided to match local and federal funds designated to replace the Caldwell County armory. The total cost to build the new armory is \$7.9 million.

71 Assistance to NC National Guard Family Members \$250,000 NR
 Funding is provided for the The NONG Soldiers and Airmen's Assistance Fund. This fund is administered by the NC National Guard to provide emergency financial assistance to members and their immediate families who are experiencing financial hardships.

Victim and Justice Services

72 Crime Victims' Compensation Funds \$2,500,000 NR
 One-time funding is provided to eliminate the backlog of approved but unpaid claims for crime victims' compensation. This increase in funding will allow the program to draw down an additional \$1.5 million in federal VOCA matching funds. The Governor requested \$1.2 million R for this program

Budget Changes	(\$312,373)	R
	\$4,225,000	NR
Total Position Changes	4.00	
Revised Total Budget	\$32,051,637	

**GENERAL
GOVERNMENT
Section J**

Administration

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

\$52,583,907

Budget Changes

1111 Secretary's Office

1 HUB/MWBE

\$260,000 R
\$40,000 NR
4.00

Provides funding for the statewide implementation of the HUB/MWBE Certification Program which provides a uniform certification that will be accepted by State agencies and local governments. Also provides funding for two additional positions to support this program as well as two additional positions in the Compliance Section that are needed as a result of SB 914 (S.L. 2001-496), which increased the number of reporting agencies from 230 to over 600. HUB (Historically Underutilized Businesses)/MWBE (Minority, Women, and Disabled Business Enterprises).

The four positions are 2 HUB Outreach Specialists (\$66,100); 1 HUB Compliance Specialist (\$33,050); and 1 HUB Compliance Specialist I (\$36,355).

Recurring:

531211	Salaries	\$135,505
531511	Social Security	\$10,366
531521	Retirement	\$7,819
531561	Medical	\$13,728
532140	Other IT Services	\$2,000
532199	Misc. Contractual Ser	\$64,815
532400	Maintenance Agreement	\$1,000
532700	Transportation	\$12,300
532800	Communication/DP	\$7,700
532900	Other Services	\$1,500
533100	Supplies	\$1,767
535860	Membership Dues/Subs	\$1,500
Total Recurring		\$260,000

Nonrecurring:

532140	Other IT Services	\$8,000
534XXX	Computer Equip./Furn.	\$32,000
Total Nonrecurring		\$40,000

1264 Agency for Public Telecommunications

2 Increase Receipts

Increases requirements and budgeted receipts by \$2,878,798 to reflect the increased number of media purchases and the increase in telecommunication services provided to State agencies.

1311 Office of State Personnel

3 Personnel and Operating Budget Adjustments

(\$72,207) R

Eliminates salary and related fringe benefits (\$47,913) of a vacant Community Service Consultant (#4000-0300-0004-443), and reduces data processing services (532821) by \$24,294.

-1.00

1411 Office of State Construction

4 Mold Remediation Services

\$96,100 R

Provides funding to establish one Engineer III position and to hire a consultant to develop best practice construction guidelines in preventing mold in State-owned facilities.

\$55,000 NR

1.00

531211	Salaries	\$65,000
531511	Social Security	\$4,973
531521	Retirement	\$3,754
531561	Medical	\$3,432
532100	Other	\$3,841
532700	Transportation	\$8,000
532800	Communication/DP	\$1,200
533100	Supplies	\$200
534500	Equipment	\$5,700
532199	Misc. Cont. Serv	\$55,000 NR

1421 Facilities Management

5 Operating Budget Reduction

(\$465,563) R

Reduces the operating budget for utility/energy services (532200).

1731 Council for Women/DV Commission

6 Domestic Violence Center Fund

\$2,000,000 R

Provides additional funds for grants to domestic violence programs awarded from the Domestic Violence Center Fund pursuant to G.S. § 50.9.

1761 Youth Involvement Office

7 Increase Internship Wages

\$38,000 R

Provides funding to increase wages for participants in the summer internship program from \$6.75 per hour to \$8.25 per hour.

1771 Veterans Affairs Division

8 Veterans' Children Scholarship Program

(\$175,000) R

Transfers a portion of the funding for the scholarships from appropriation-support to receipt-support. The receipt-supported portion will be funded from the Escheats Fund. This adjustment shifts the funding source for a portion of the scholarships. The total amount of funding that is available for the scholarship program remains the same.

9 New Nursing Home for Veterans		
Provides start-up funds for the operation of the 90-bed State veterans' nursing home in Salisbury. The nursing home opened in the Spring of 2004. It is the State's second veterans' nursing home. The first is in Fayetteville, NC.	\$500,000	NR
1861 Commission on Indian Affairs		
10 NC Economic Development Initiative/Strategic Plan		
Provides a grant to the North Carolina Economic Development Initiative, a nonprofit organization that was created as an outgrowth of the NC Commission on Indian Affairs Year 2003 Strategic Planning effort. The goal of the Initiative is to develop an infrastructure for securing public and private funding for economic development in Indian communities in the State. The funding of this project will be an essential part of supporting the Governor's goal of creating jobs and economic growth in North Carolina, especially in Indian communities.	\$200,000	NR
<hr/>		
Budget Changes	\$1,681,330	R
	\$795,000	NR
Total Position Changes		4.00
Revised Total Budget	\$55,060,237	
<hr/>		

Auditor

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$10,293,801
<hr/>	
Budget Changes	
1210 Field Audit Division	
11 Over-realized Receipts	
Increases budgeted receipts to more accurately reflect actual receipts realized from audit work related to the single audit and CAFR. Increasing budgeted receipts allows for a reduction in the required General Fund appropriation.	(\$100,200) NR
12 Operating Budget Reduction	
Reduces the operating budget in the following line items:	(\$99,800) NR
534500 Computer Equipment (\$25,000)	
532120 Financial Audit Services (\$30,000)	
532800 Communication/Data Proc. (\$20,000)	
534500 Furniture (\$24,800)	
Total (\$99,800)	
<hr/>	
Budget Changes	(\$200,000) NR
Total Position Changes	
Revised Total Budget	\$10,093,801
<hr/>	

Cultural Resources

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session **\$54,088,598**

Budget Changes

1110 Office of the Secretary

13 Operating Budget Adjustment

Provides funding for a reserve (536930). \$925,000 NR

14 Grants Reserve

Provides funds for a reserve for grants. \$9,161,618 NR

1120 Administrative Services

15 Operating Budget Reductions

Reduces funds for personal computers and printers (534534). (\$23,413) R

16 IT Systems Office Expansion

Provides funding to expand the information systems operation for archiving documents and digital images. This funding will be used to establish an Information Systems Director I (\$72,221), Computer Network Coordinator (\$52,354), and Applications Analyst Programmer I (\$52,354) and \$152,199 for operating expenses. \$361,668 R
\$1,500 NR
3.00

1210 Historic Resources

17 Operating Budget Reductions

Reduces the following expenditure accounts: (\$19,336) R

- 532199 Misc. Contractual Services (5,000)
- 532390 Other Repairs (7,000)
- 532490 Maintenance Agreement (1,000)
- 532724 Meals - In State (1,000)
- 532731 BD Non-Employee Trans (1,000)
- 532732 BD Non-Employee Sub (1,336)
- 532860 Advertising (1,000)
- 532919 Other Insurance (1,000)
- 534534 PC Printer Equipment (1,000)

1220 Historic Publications

18 Operating Budget Reductions

Reduces funds for personal computers (534534) and software (534713). (\$12,636) R

1230 Archives and Records

19 Personnel Reductions

(\$59,166) R

Eliminates salary and related fringe benefits of two vacant positions: Processing Assistant IV - #4802-0303-002-176 (\$20,576) and a Records Management Analyst - #4802-0304-002-200 (\$27,038):

-2.00

531211 Salaries	(47,614)
531511 Social security Cont.	(1,941)
531521 Retirement	(2,747)
531561 Medical Ins. Cont.	(6,864)

20 Digital Archives and Repository

\$197,200 R

Provides funding for 5 positions and operating expenses to expand local records and information technology programs, to address the increased volume of state and local government records, and to meet requirement to expand online access to public records. The positions and operating expenses include the following:

\$2,800 NR

5.00

Positions	
Archivist II	29,354
Archivist I	25,968
Information Processing Tech	24,036
Processing Assistant IV	20,576
Photo Lab Tech III	22,251

531211 Salaries	122,185
531511 Social Security Cont.	9,347
531521 Retirement	7,050
531561 Medical Ins Cont	17,160
532490 Maint Agreements	3,000
532714 Trans-In State Grd	1,500
532715 Trans-Out of State	550
532721 Lodging-In State	500
532715 Lodging-Out of State	750
532724 Meals-In State	450
5327225 Meals-Out of State	300
532821 Data Processing Sys	6,000
532942 Oth Employee Expense	1,000
533110 Gen Office Supplies	2,000
533900 Oth materials-Supplies	25,000
534511 Office Furniture	1,300 NR
534534 Equipment-Computers	1,500 NR
534713 Computer Software	408
535830 Membership, Dues, Subs	3,000

1241 State Historic Sites

21 Operating Budget Reductions

(\$120,489) R

Reduces the following expenditure accounts:

531311 Temporary Wages	(54,270)
531511 Social Security Cont.	(4,496)
532199 Misc Contractual Ser	(61,723)

Conference Report on the Continuation, Capital and Expansion Budgets

FY 04-05

22 New Personnel		\$49,935	R
Provides funds for a Landscaper position with a salary of \$41,000 plus benefits for a total of \$49,935 in recurring costs and \$10,000 for non-recurring expenses.		\$10,000	NR
		1.00	
23 Funds for Civil War Corridor		\$100,000	R
Provides funds to establish a Civil War Corridor Information Center. Funding supports two (2) Historic Sites Specialist III positions at a grade 70 and salary of \$35,134 with total personnel costs of \$86,562 and operating expenses of \$13,438.		2.00	
1242 Tryon Palace Historic Site			
24 Operating Budget Reductions		(\$31,380)	R
Reduces temporary wages (531311) and makes corresponding adjustment in social security (531511).			
25 Increase Operating Budget		\$560,000	NR
Provides funds for remediation services for Barbour Boat Works.			
1250 Archives/Historic Preservation			
26 Operating Budget Reductions		(\$14,375)	R
Reduces the following expenditure accounts:			
532199 Misc. Contractual Services	(6,896)		
532715 Ground Transp - Out of State	(649)		
532725 Meals - Out of State	(2,254)		
532728 Misc Subs - Out of State	(1,091)		
532731 BD Non-Employee Trans	(990)		
532732 BD Non-Employee Subs	(438)		
532850 Print, Bind, Duplicate	(529)		
532942 Other Employee Educ Exp	(643)		
533900 Other Materials and Supplies	(885)		
1260 Office of State Archaeology			
27 Operating Budget Reductions		(\$12,666)	R
Reduces the following expenditure accounts:			
532714 Ground Transp - In State	(600)		
532721 Lodging - In State	(800)		
532724 Meals - In State	(600)		
532811 Telephone Services	(3,233)		
532840 Postage, Freight, & Delivery	(733)		
532850 Print, Bind, Duplicate	(500)		
533900 Other Materials and Supplies	(2,800)		
534534 Computer Equip	(1,500)		
534539 Other Equipment	(1,000)		
534713 Computer Software Equip	(500)		
535830 Membership Dues & Subs	(400)		

1290 Western Office

28 Operating Budget Reductions (\$5,518) R

Reduces the following expenditure accounts:

532199 Misc. Contractual Services	(	114)
532210 Enrg Ser - Electrical	(	80)
532390 Other Repairs	(	100)
532715 Ground Transp - Out of State	(	40)
532722 Lodging - Out of State	(	850)
532725 Meals - Out of State	(	307)
532811 Telephone Services	(	1,733)
532812 Telecomm Data Chg	(	250)
532840 Postage, Freight, & Delivery	(	945)
533110 General Office Supplies	(	500)
533900 Other Materials and Supplies	(	599)

1320 Museum of Art

29 Restore Public Hours and Support Public Services \$487,500 R

Provides additional funding to support museum operations. \$487,500 NR

1330 NC Arts Council

30 Restore Basic Grants Program and Operating Budget \$358,296 R

Restores the reduction in program funding approved in the 2003 Session, restores operating expenses reduced since FY 01-02, and provides a \$100,000 grant-in-aid to the Carolina Ballet for FY 04-05. \$100,000 NR

1340 NC Symphony

31 Grant-in-Aid \$200,000 NR

Provides a grant-in-aid to the Symphony for FY 04-05.

1480 State Library Statewide Programs

32 Maintain NC LIVE Series \$800,000 R

Provides funding to support the continued operation of NC LIVE, and \$46,275 for a Librarian Consultant I position to provide training. 1.00

1500 Museum of History

33 Operating Budget Reductions (\$97,396) R

Reduces the following expenditure accounts:

532199 Misc. Contractual Services	(	48,698)
532310 Bldg Repairs	(	5,000)
532390 Other Repairs	(	5,000)
532714 Ground Transp - In State	(	5,000)
532840 Postage, Freight, & Delivery	(	5,000)
533900 Other Supplies and Mats	(	18,698)
534539 Other Equipment	(	10,000)

Conference Report on the Continuation, Capital and Expansion Budgets

FY 04-05

34 Museum of the Albemarle Operation	\$337,390	R
Funds provide start-up and operating costs for the Museum of the Albemarle, which is scheduled to be completed in the 2004-05 fiscal year.	6.00	
35 Exhibit of NC History	\$1,200,000	NR
Provides initial funding to establish a permanent exhibit of the chronological history of North Carolina.		
Budget Changes	\$2,295,614	R
	\$12,648,418	NR
Total Position Changes	16.00	
Revised Total Budget	\$69,032,630	

General Assembly

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$44,971,305
<hr/>	
Budget Changes	
1900 Reserves and Transfers	
36 Operating Reserve	
Reduces operating reserve funds.	(\$921,318) NR
<hr/>	
Budget Changes	(\$921,318) NR
Total Position Changes	
Revised Total Budget	\$44,049,987

		FY 04-05
Total Budget Approved 2003 Session		\$4,826,503
<hr/>		
Budget Changes		
1110 Administration		
37 Operating Budget Reductions		(\$88,037) R
Reduces operating budgets in the following line items:		
531561 Medical Insurance	(\$36,000)	
532199 Misc. Contractual Services	(\$41,037)	
532711 Transportation Air	(\$6,000)	
532714 Transportation Ground	(\$5,000)	
1120 Dues to National Associations		
38 Council of State Government Dues		\$141,739 R
Provides funding to pay Council of State Government dues.		
1130 Intergovernmental Relations		
39 Operating Budget Reduction		(\$11,000) R
Reduces the operating budget for rent/lease of building/office (532512).		
<hr/>		
Budget Changes		\$42,702 R
Total Position Changes		
Revised Total Budget		\$4,869,205
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Housing Finance Agency

GENERAL FUND

		FY 04-05
Total Budget Approved 2003 Session		\$4,750,945
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Budget Changes		
8103 NC Housing Foreclosure		
40 Home Protection Pilot Program and Loan Fund		
Provides funds for the North Carolina Housing Finance Agency to develop, implement, and administer a pilot program to assist North Carolina workers who have lost jobs as a result of changing economic conditions in North Carolina, and are in need of temporary assistance to avoid losing their homes to foreclosure.	\$1,725,000	NR
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Budget Changes		\$1,725,000 NR
Total Position Changes		
Revised Total Budget		\$6,475,945
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Information Technology Services

INTERNAL SERVICE
FUND

FY 04-05

Total Budget Approved 2003 Session

\$0

Budget Changes

24669 Governor - ITS Wireless Fund

41 Wireless Board Receipt-Support Position

The Wireless 911 Board, established in G.S. 62A-22, deducts a 1% administrative fee from the total monthly remittances of the \$0.80 per Commercial Mobile Radio Service (CMRS) connection service fee. This request establishes a new Networking Technician position. This receipt-supported position is to be supported by the Board's 1% administrative fee and expands the Board's staff from two to three positions. The Network Technician position provides training and support to the Public Safety Answering Points (PSAPs). The request is for salary and fringe benefits of \$65,096.

Requirements (R)	\$65,096
Receipts (R)	\$65,096
Appropriation (R)	\$ 0

Budget Changes

Total Position Changes

Revised Total Budget

\$0

Insurance

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

\$23,187,587

Budget Changes

1400 Public Services Group

42 Continuing Education \$911,413 R

Transfers funding for the Department's continuing education program from receipt-support to appropriation-support. The amount appropriated will be reimbursed from the Insurance Regulatory Fund. Any receipts collected for the program will be deposited into the Insurance Regulatory Fund in accordance with temporary statutory changes that were implemented by S.L. 2002-144 and which are made permanent by special provision.

1500 Office of the Fire Marshall

43 Manufactured Housing \$972,311 R

Transfers funding for the Department's manufactured housing program from receipt-support to appropriation-support. The amount appropriated will be reimbursed from the Insurance Regulatory Fund. Any receipts collected for the program will be deposited into the Insurance Regulatory Fund in accordance with temporary statutory changes that were implemented by S.L. 2002-144 and which are made permanent by special provision.

44 Building Code Book Sales \$1,688,930 R

Transfers funding for the Department's building code book sales program from receipt-support to appropriation-support. The amount appropriated will be reimbursed from the Insurance Regulatory Fund. Any receipts collected from the sale of building code books will be deposited into the Insurance Regulatory Fund in accordance with temporary statutory changes that were implemented by S.L. 2002-144 and which are made permanent by special provision.

1900 Reserves and Transfers

45 Increase Transfer to Consumer Protection Fund \$490,000 NR

Provides additional funding for the cost of litigating 2004 auto, homeowner, and territory rate filings. Funding will be used for consultants, court reporting services, and other litigation expenses. The Insurance Regulatory Fund will reimburse the General Fund for the appropriation.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 04-05

Budget Changes	\$3,572,654	R
	\$490,000	NR
Total Position Changes		
Revised Total Budget	\$27,250,241	

Insurance - Workers' Compensation for Volunteer Firemen

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$2,600,000
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Budget Changes	
46 Volunteer Safety Worker's Compensation Fund	
Reduces the General Fund Appropriation to the Volunteer Safety Workers' Compensation Fund on a nonrecurring basis. The reduction will not affect the solvency of the Fund.	(\$1,734,000) NR
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Budget Changes	(\$1,734,000) NR
Total Position Changes	
Revised Total Budget	\$866,000

Lieutenant Governor

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

\$601,722

Budget Changes

1110 Administration

47 Increase Office Assistant Position Hours \$4,555 R

Provides funding to increase staff hours from 10 to 16 hours per week for one position. Currently an Office Assistant position (1 FTE) is split between two employees on a .75 FTE (30 hours) and .25 FTE (10 hours) basis. This existing Office Assistant position for citizens affairs remains as 1 FTE funded at .75 FTE (pos.# -0016-035). A new Office Assistant position for office management is established and paid at .40 FTE (16 hours per week). This salary funding pays for the additional .15 FTE (increase from .25 FTE to .40 FTE per week).

0.15

	New .40 FTE	Current .25 FTE	Net Requested .15 FTE
531111 Salary	\$11,282	\$7,051	\$4,231
531511 Social Sec.	\$863	\$539	\$324
Total	\$12,145	\$7,590	\$4,555

48 Establish New Position for Military Affairs \$25,102 R

Funds a time-limited Processing Assistant III position. This position provides administrative support for North Carolina's Base Realignment and Closure (BRAC) 2005 Response and office support for military affairs efforts as designated by the Governor to the Lt. Governor.

1.00

531111 Salaries	\$19,105
531511 Social Sec.	\$1,462
531521 Retirement	\$1,103
531561 Medical Ins.	\$3,432
Total	\$25,102

Budget Changes \$29,657 R

Total Position Changes 1.15

Revised Total Budget \$631,379

Office of Administrative Hearings

GENERAL FUND

		FY 04-05	
Total Budget Approved 2003 Session		\$2,411,797	
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Budget Changes			
1100 Administration and Operations			
49 Operating Budget		(\$24,874)	R
It is recommended that the operating budgets for contractual services, maintenance agreements, rent and leases, travel, communication and data processing, and general administrative supplies be reduced.			
532199 Misc. Contractual Services	(\$5,000)		
532400 Maintenance Agreements	(\$1,000)		
532500 Rental / Leases	(\$ 374)		
532700 Travel	(\$7,000)		
532800 Communication and Data Process	(\$5,000)		
533100 General Adm'n. Supplies	(\$6,500)		
50 Increase Civil Rights Investigator Positions		\$103,150	R
Expands the Civil Rights Division by 2 positions. This expansion adds 2 Civil Rights Investigators (pay grade 74) to reduce backlog of cases.			
		\$12,200	NR
		2.00	
531211 Salaries and Wages	\$75,546 (R)		
531511 Social Security Contrib	\$ 5,780 (R)		
531521 Retirement Contrib	\$ 4,360 (R)		
531561 Hospital Ins Contrib	\$ 6,864 (R)		
532700 Travel	\$ 7,000 (R)		
532811 Telephone	\$ 1,200 (R)		
533110 Office Supplies	\$ 600 (R)		
532942 Employee Educ	\$ 1,800 (R)		
534511 Office Furniture	\$ 4,200 (NR)		
534534 Computer Equip	\$ 8,000 (NR)		
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Budget Changes		\$78,276	R
		\$12,200	NR
Total Position Changes		2.00	
Revised Total Budget		\$2,502,273	
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Revenue

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$75,174,094

Budget Changes

1605 Information Technology	
51 Replace Obsolete Equipment	\$500,000 R
Provides funding to replace IT equipment.	

1660 Examination and Collection

52 Operating Expense Transfer

Transfers 70 positions that have responsibility for debt collection from General Fund to receipt-support using funds from the 20% Collection Assistance Fee in Budget Code 24704-2474:

(\$3,664,145) NR
-70.00

Positions	
Tax Assistant Admin I	#4784-0000-0070-005 - (85,331)
Tax Administrator I	#4784-0000-0070-020 - (98,527)
Tax Assistant Admin I	#4784-0000-0070-023 - (92,079)
Revenue Officer I	#4784-0000-0073-010 - (42,534)
Revenue Officer I	#4784-0000-0073-046 - (41,182)
Revenue Officer I	#4784-0000-0073-050 - (41,182)
Revenue Officer II	#4784-0000-0073-051 - (49,909)
Revenue Officer I	#4784-0000-0073-052 - (41,182)
Revenue Officer I	#4784-0000-0073-057 - (53,608)
Revenue Officer II	#4784-0000-0073-058 - (60,477)
Revenue Officer II	#4784-0000-0073-059 - (54,535)
Inf or Process. Tech	#4784-0000-0073-063 - (43,228)
Revenue Office Mgr II	#4784-0000-0073-080 - (72,862)
Revenue Officer I	#4784-0000-0073-085 - (41,182)
Revenue Officer I	#4784-0000-0073-086 - (41,830)
Revenue Officer II	#4784-0000-0073-090 - (76,052)
Revenue Officer I	#4784-0000-0073-096 - (41,182)
Revenue Office Mgr II	#4784-0000-0073-097 - (52,294)
Revenue Officer I	#4784-0000-0073-100 - (41,808)
Revenue Officer I	#4784-0000-0073-200 - (45,099)
Revenue Office Mgr II	#4784-0000-0073-330 - (73,604)
Revenue Officer II	#4784-0000-0073-336 - (63,851)
Revenue Officer I	#4784-0000-0073-338 - (41,907)
Revenue Officer I	#4784-0000-0073-340 - (42,514)
Revenue Officer II	#4784-0000-0073-343 - (49,951)
Revenue Officer II	#4784-0000-0073-345 - (51,143)
Revenue Officer I	#4784-0000-0073-346 - (41,182)
Revenue Officer I	#4784-0000-0073-347 - (42,534)
Revenue Officer I	#4784-0000-0073-349 - (45,811)
Inf or Process. Tech	#4784-0000-0073-357 - (32,577)
Revenue Office Mgr II	#4784-0000-0073-385 - (60,253)
Revenue Officer II	#4784-0000-0073-390 - (57,507)
Revenue Officer I	#4784-0000-0073-393 - (45,297)
Revenue Officer I	#4784-0000-0073-397 - (42,629)
Revenue Officer II	#4784-0000-0074-000 - (74,729)
Revenue Officer I	#4784-0000-0074-005 - (46,582)
Revenue Officer I	#4784-0000-0074-006 - (46,876)
Revenue Officer II	#4784-0000-0074-035 - (47,034)
Revenue Officer II	#4784-0000-0074-041 - (47,098)
Revenue Officer II	#4784-0000-0074-042 - (52,986)
Revenue Officer I	#4784-0000-0074-043 - (41,890)
Revenue Officer I	#4784-0000-0074-045 - (46,894)
Revenue Officer II	#4784-0000-0074-055 - (60,547)
Revenue Officer I	#4784-0000-0074-060 - (56,942)
Revenue Officer I	#4784-0000-0074-061 - (44,342)
Revenue Office Mgr I	#4784-0000-0074-065 - (61,945)
Revenue Officer I	#4784-0000-0074-071 - (41,182)
Revenue Office Mgr II	#4784-0000-0074-080 - (74,579)

Revenue

Revenue Officer II	#4784-0000-0074-085 - (57,943)
Revenue Officer I	#4784-0000-0074-086 - (43,972)
Revenue Office Mgr II	#4784-0000-0074-095 - (76,096)
Revenue Officer I	#4784-0000-0074-101 - (45,094)
Revenue Officer I	#4784-0000-0074-102 - (46,879)
Revenue Officer I	#4784-0000-0074-103 - (48,950)
Revenue Officer I	#4784-0000-0074-115 - (45,799)
Revenue Officer I	#4784-0000-0074-150 - (46,096)
Revenue Officer I	#4784-0000-0074-152 - (47,346)
Revenue Officer I	#4784-0000-0074-166 - (45,336)
Revenue Officer II	#4784-0000-0074-190 - (55,662)
Revenue Officer I	#4784-0000-0074-197 - (41,182)
Revenue Officer Mgr II	#4784-0000-0074-200 - (60,115)
Revenue Officer I	#4784-0000-0074-217 - (45,088)
Revenue Office Mgr II	#4784-0000-0074-240 - (75,571)
Revenue Office I	#4784-0000-0074-251 - (45,623)
Revenue Officer I	#4784-0000-0074-254 - (48,607)
Revenue Officer I	#4784-0000-0074-256 - (48,929)
Revenue Office Mgr I	#4784-0000-0075-000 - (58,728)
Revenue Officer I	#4784-0000-0075-005 - (46,579)
Revenue Officer I	#4784-0000-0075-006 - (47,328)
Infor Process. Tech	#4784-0000-0076-613 - (36,753)

1661 Project Collect Tax

53 Operating Expense Transfer

(\$1,628,858) R

Transfers the operating budget for the division to receipt-support using funds available from the 20% Collection Assistance Fee in Budget Code 24704-2474.

54 Increase Operating Costs

Authorizes the use of funds from the 20% Collection Assistance Fee in Budget Code 24704/Fund 2474 for expenses related to the Division's operation, specifically for taxpayer locator services - \$100,000, and up to \$267,273 for postage to mail tax collection notices in FY 04-05. Within 24704/2474, the \$100,000 for taxpayer locator services will be supported with funds in expenditure account 535890, and the \$267,273 for postage in expenditure account 532840003.

1663 Project Compliance

55 New Program Personnel and Operating Budget

\$2,837,009 R
 \$294,200 NR
 47.00

Fully funds Project Compliance in FY 04-05. This appropriation also contains support for outreach activities to increase tax compliance with the provision of resources for interpretative services. Total funding required to complete implementation of the project is \$3,131,209 -- \$2,837,009 recurring and \$294,200 non-recurring, which supports 47 positions and operating expenses, effective October 1, 2004. The expansion affects Corporate, Excise & Insurance; Taxpayer Assistance; Examination & Collection; Information Technology; and Administrative Services. The forty-seven positions include 1 Revenue Admin Officer III, 4 Revenue Admin Officer I, 1 Revenue Field Auditor Supervisor, 6 Revenue Field Auditor II, 6 Revenue Field Auditor I, 2 Revenue Tax Auditor II, 15 Revenue Tax Auditor I, 11 Revenue Tax Technicians, and 1 Computing Consultant III with the following expenses:

		FY 04-05
531211	Salaries	1,521,768
531511	Social Security Cont.	116,416
531521	Retirement	87,807
531561	Medical Ins Cont	120,978
532140	Oh Info Tech Svs	335,000
532143	LAN Support Svs	75,000
532145	Server Support Svs	90,000
532199004	Interpreter Svs	66,000
532447	Maint Agree- PC & Printers	3,948
532448	Maint Agree- Software	13,442
532512	Rentals/Leases	29,250
532512	Office/Home Subsidy	2,700
532714	Transportation	161,750
532811	Telephone Service	16,450
532840003	Post/F/D - Postal Meter	92,000
532850	Printing, Binding & Dup	45,000
532860	Advertising	23,000
533110	Gen Office Supplies	36,500
534511	Office Furniture	211,500 NR
534521	Office Equipment	4,700 NR
534534	PC & Printer Purch (Laptop)	26,000 NR
534534	PC & Printer Purch (Desktop)	40,800 NR
534534	PC & Printer Purch (Laser print)	10,000 NR
534534	PC & Printer Purch (print & pix)	1,200 NR

1710 Fuel Tax Compliance

56 Revenue Tax Evasion Project

Provides funding to support 10 time-limited positions, operating expenses, and an electronic tracking system to collect delinquent motor fuels taxes. The project is a joint effort of the Departments of Transportation and Revenue and is receipt-supported with funding available from Highway Trust Fund Administration. Total cost for FY 04-05 is \$2,620,023 of which \$681,060 is recurring and \$1,938,963 non-recurring. The 10 positions are effective July 1, 2004:

Positions	
1 Processing Assist V -	22,251
1 Information Processing Tech -	29,684
6 Tax Investigators -	125,685
1 Revenue Tax Auditor I -	180,720
1 Applications Analyst Programmer II -	57,369
531212 Salaries	396,674
531512 Social Security	30,346
531522 Regular Retirement	8,384
531532 LEO Retirement	27,073
531562 Medical Insurance	34,320
532140 Qh Information Tech	1,800,000 NR
532210 Energy Service - Elect	4,670
532220 Energy Service - Gas	2,800
532310 Building Repairs	20,000 NR
532447 Maint Agreement - PC Printer	840
532448 Maint Agreement - Software	2,860
532512 Rent / Lease Bldg/ Qher	48,594
5327XX Transportation	56,000
532811 Telephone Svs	3,500
532818 Data Wrng Svc Charge	8,000 NR
532821 Computer data Processing	50,000
532942 Qh Employee Training Expense	11,319 NR
533110 General Office Supplies	5,000
533510 Clothing & Uniforms	2,250 NR
534511 Office Furniture	45,000 NR
534521 Office Equip (calculators)	1,000 NR
534521 Office Equip (fax, copier)	12,000 NR
534529 Equip-Custody & Security	13,344 NR
534533 LAN Equip (switch)	2,000 NR
534533 LAN Equip (drive/server)	4,000 NR
534534 Pr/PC Equip (lapt ops/ deskt ops)	17,600 NR
534534 Printer/ PC Equip	2,450 NR

Conference Report on the Continuation, Capital and Expansion Budgets

FY 04-05

Budget Changes	\$1,708,151	R
	(\$3,369,945)	NR
Total Position Changes	-23.00	
Revised Total Budget	\$73,512,300	

Rules Review Commission

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$310,454
<hr/>	
Budget Changes	
1100 Administration	
57 Bd. Compensation, Transport. & Subsistence Budget	(\$3,185) R
It is recommended that board member compensation, transportation, and subsistence be reduced:	
531651 Compensation to Bd Member	(\$2,000)
532731 Bd/ Non-employee transport	(\$1,000)
532732 Bd/ Non-employee subsist	(\$ 185)
	<hr/>
Budget Changes	(\$3,185) R
Total Position Changes	
Revised Total Budget	\$307,269
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Secretary of State

GENERAL FUND

		FY 04-05	
Total Budget Approved 2003 Session		\$7,756,198	
<hr/>			
Budget Changes			
1240 Business License Information Office			
58 Elimination of Business License Information Office		(\$110,389)	R
Eliminates the budget for the Business License Information Office. The functions of the Office will be transferred to the North Carolina Department of Commerce effective July 1, 2004.		-1.00	
<hr/>			
Budget Changes		(\$110,389)	R
Total Position Changes		-1.00	
Revised Total Budget		\$7,645,809	
<hr/>			

State Board of Elections

GENERAL FUND

FY 04-05
\$4,915,939

Total Budget Approved 2003 Session

Budget Changes

18025 State Board of Elections - General

59 Reduce Operating Budget (\$49,506) R

Reduces the following line items:

- 532199 Misc Contractual Service (\$2,000)
- 532700 Travel/Other Empl Exp (\$15,000)
- 533100 General Adm'n Supplies (\$14,506)
- 534500 Equipment (\$18,000)

These reductions do not involve HAVA Maintenance of Effort (MCE) funds.

1900 Reserves and Transfers

60 NC Public Campaign Financing Fund \$725,000 NR

Provides funding to support the NC Public Campaign Financing Fund. This money shall be transferred to the Fund and used to provide rescue funding for certified candidates as provided for in Article 22 of Chapter 163 of the General Statutes.

28025 HAVA Federal Fund

61 Provide Help America Vote Act (HAVA) State Match \$1,521,918 NR

Provides additional State funding to meet the obligatory 5% State Match of \$1,521,918 for federal Help America Vote Act (HAVA) of 2002 Title II requirements payment for Federal Fiscal Years (FFY) 2003 and 2004.

In S.L. 2003-284, the General Assembly appropriated a total non-recurring amount of \$1,922,215 as the State's required 5% match for HAVA Title II Requirements Payments for an estimated \$36,544,000. North Carolina anticipated receiving estimated allocations of \$22,600,000 in FFY 2003 and \$13,944,000 in FFY 2004. However, the federal Elections Assistance Commission (EAC) will oversee the distribution of an estimated \$23,431,708 to North Carolina for state fiscal year (SFY) 2003-04 and \$42,046,100 for SFY 2004-05. The unanticipated increase in Title II Requirements Payments provides an additional \$28,102,200 in FFY 2004, which resulted from Congress appropriating \$1.5 billion instead of the estimated \$500 million. The increase required an additional non-recurring appropriation for North Carolina to meet the required 5% state match. The revised amount of match needed is \$43,748 for SFY 2003-04 and \$1,478,170 for SFY 2004-05. These funds are to be allocated to the State Election Fund established by S.L. 2003-12.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 04-05

Budget Changes	(\$49,506)	R
	\$2,246,918	NR
Total Position Changes		
Revised Total Budget	\$7,113,351	

State Budget and Management

GENERAL FUND

		FY 04-05	
Total Budget Approved 2003 Session		\$4,216,110	
<hr/>			
Budget Changes			
1310 Office of State Budget and Management			
62 Operating Budget and Personnel Reductions		(\$41,020)	R
Reduces the operating budget in the following line items:			
532731	Transportation-Board/Non-employee	(\$15,510)	
532732	Subsistence-Board/Non-employee	(\$15,510)	
531461	Longevity	(\$10,000)	
63 Operating Budget Increases		\$79,447	R
Provides funding to increase the operating budget in the following line items:			
Recurring:			
532199	Misc. Contractual Services	\$3,026	
532821	Computer Data Processing	\$76,421	
Nonrecurring:			
534500	Computer Equipment	\$10,000	
64 Capital Improvement Planning		\$253,000	R
Provides funding for compliance with the Capital Improvement Planning Act (Act), Article 1B of Chapter 143, including the establishment of an analyst position responsible for capital budgeting and planning and for the development of the Capital Improvement Plan required by the Act. Of the funds provided, \$100,000 is for contractual services.			
1.00			
1900 Reserves and Transfers			
65 Reserve for Rules Review Commission Lawsuits		\$100,000	R
Provides additional funding for the reserve to fund lawsuits brought against the Rules Review Commission.			
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Budget Changes		\$391,427	R
		\$10,000	NR
Total Position Changes		1.00	
Revised Total Budget		\$4,617,537	
<hr/>			

State Budget and Management - Special Appropriations

GENERAL FUND

		FY 04-05
Total Budget Approved 2003 Session		\$3,130,000
<hr/>		
Budget Changes		
1022 2004 Special Appropriations		
66 East Market Street Development Corporation		
Provides a grant to the East Market Street Development Corporation to revitalize an economically depressed area.	\$500,000	NR
67 Kids Voting NC Funds		
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 to implement new Kids Voting programs across the State, including Clay, Greene, Haywood, Henderson, Jackson, Iredell, Madison, and New Hanover counties. The remaining \$200,000 shall be divided equally among the participating counties of Buncombe, Cabarrus, Catawba, Cumberland, Durham, Guilford, Mecklenburg, Onslow, Randolph, and Wake to assist those counties with their Kids Voting programs.	\$250,000	NR
68 NC Humanities Council		
Provides additional funding to the North Carolina Humanities Council, a nonprofit corporation, for the programs of the Council.	\$50,000	R
69 Highlands School of Technology		
Provides funding to the school for the purchase of computers.	\$75,000	NR
1900 Reserves and Transfers		
70 Reserve for Grants		
Provides funds for a reserve for grants.	\$1,338,382	NR
		\$50,000
Budget Changes		NR
		\$2,163,382
Total Position Changes		
Revised Total Budget		\$5,343,382

State Controller

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$9,719,451
<hr/>	
Budget Changes	
Administration	
71 Computer/Data Processing	(\$99,429) R
Reduces the expenditure account for computer/data processing services (532821).	
<hr/>	
Budget Changes	(\$99,429) R
Total Position Changes	
Revised Total Budget	\$9,620,022

Total Budget Approved 2003 Session

Budget Changes

1130 Escheats Division

72 Information Technology Expansion

Authorizes the use of receipts from the Escheats Fund in the amount of \$990,000 to modify the Retirement System Division's existing digital imaging system to meet the imaging needs of the Escheats Division. Of the \$990,000 that is authorized, \$840,000 is nonrecurring and \$150,000 is recurring.

Also authorizes the use of receipts from the Escheats Fund in the amount of \$150,000 on a nonrecurring basis to purchase a locator service software package.

73 Operating and Personnel Expansion

Authorizes the use of receipts from the Escheats Fund in the amount of \$143,624 to establish 5 Processing Assistant IV positions at a salary of \$22,300 each plus benefits. Also authorizes the use of receipts in the amount of \$19,750 for start-up operating costs for the positions and in the amount of \$376,400 for on-going operating costs which include rent, telephone service, temporary staff, and contracted claims processing.

Recurring:		
531212	Salaries	\$111,500
531312	Temporary Staff	\$176,000
531512	Social Security	\$8,530
531522	Retirement	\$6,434
531562	Medical	\$17,160
532199	Misc. Cont. Ser.	\$150,000
532500	Rent	\$49,200
532800	Telephone	\$1,200
Total		\$520,024

Nonrecurring:		
534500	Equipment	\$19,750

1210 Investment Management Division

74 Establish Chief Investment Officer Position \$173,562 R

Provides funding for the establishment of a Chief Investment Officer position.

531211	Salaries	\$150,000
531511	Social Sec	\$11,475
531521	Retirement	\$8,655
531561	Medical	\$3,432
	Total	\$173,562

The General Fund will be reimbursed from a non-tax revenue source.

75 Operating Budget Reduction (\$34,265) R

Reduces the operating budget for computer/data processing (532821).

76 Convert Receipt-Supported Positions. \$483,940 R

Provides funding to convert five Risk Management Analyst positions that were established in FY 2003-04 as receipt-supported positions to appropriation-support. This action will provide consistency within the Division's budget. The General Fund will be reimbursed from a non-tax revenue source for the appropriation.

5.00

The positions are classified as grade 81. The salary for each position is \$82,310.

531211	Salaries	\$411,550
531511	Social Sec.	\$31,485
531521	Retirement	\$23,745
531561	Medical	\$17,160

1310 Local Government Operations Division

77 Operating Budget Reduction (\$68,529) R

Reduces the operating budget for computer/data processing (532821).

1410 Retirement Systems Division

78 Information Technology Project for FY 2004-05

Authorizes the use of receipts from the Retirement Fund in the amount of \$8,794,546 for FY 2004-2005 to pay for the implementation phase (FY 2004-05 costs only) of the Retirement Systems Division's information technology project. The total cost of the project is estimated to be \$27,595,707. The Department was authorized by S.L. 2003-284 to use \$2,741,500 during FY 2003-2004 and \$2,800,000 during FY 2004-2005. The amount expected to be incurred for FY 2004-2005 is \$11,594,546. The authorization to use \$8,794,546 will bring the total authorized for FY 2004-2005 to the needs for that fiscal year.

79 Time-Limited Positions to Permanent Status

Authorizes the use of receipts from the Retirement Fund in the amount of \$491,089 for FY 2004-2005 to convert 24 time-limited positions to permanent positions and in the amount of \$4,250 for operating cost. Keeping the staff on a permanent basis will prevent a repeat of work backlogs. Four of the positions will be reclassified up and reassigned from current duties to fulfill other needs in the Division, including death claims processing, document management, and internal auditing functions. The annualized cost of the positions is \$842,772.

The four-upgraded positions are for the Retirement Accountability Initiative. The time-limited period expires October 31, 2004. The positions are effective November 1, 2004. They are as follows:

	Pos #	FY 04-05	FY 05-06
Lead Worker	(- 824)	\$16,753	\$25,130
Quality Assurance Spec.	(- 823)	\$19,569	\$29,354
Quality Control Tech. I	(- 825)	\$16,653	\$24,980
Records Mgmt. Analyst I	(- 839)	\$18,025	\$27,038

The remaining 20 positions are to maintain the customer service level. They have varying effective dates based on the expiration of the time-limited periods. The positions and the respective effective dates are as follows:

	Pos #	FY 04-05	FY 05-06
Effective July 1, 2004			
Bene Coun	(- 959)	\$30,706	\$30,706
Bene Coun	(- 960)	\$30,706	\$30,706
Bene Coun	(- 961)	\$30,706	\$30,706
Bene Coun	(- 962)	\$30,706	\$30,706
Bene Coun	(- 963)	\$30,706	\$30,706
Bene Coun	(- 964)	\$30,706	\$30,706
Effective November 1, 2004			
Proc. Asst V	(- 821)	\$16,084	\$24,126
Proc. Asst V	(- 822)	\$16,084	\$24,126
Proc. Asst III	(- 838)	\$13,781	\$20,672
Act. Asst I	(- 840)	\$16,024	\$24,036
Effective April 1, 2005			
Proc. Asst V	(- 952)	\$6,032	\$24,126
Proc. Asst V	(- 953)	\$6,032	\$24,126
Proc. Asst V	(- 954)	\$6,032	\$24,126
Act. Clk IV	(- 956)	\$6,009	\$24,036
Bene Coun	(- 946)	\$7,677	\$30,706
Bene Coun	(- 947)	\$7,677	\$30,706
Bene Coun	(- 948)	\$7,677	\$30,706
Bene Coun	(- 949)	\$7,677	\$30,706
Bene Coun	(- 950)	\$7,677	\$30,706
Bene Coun	(- 951)	\$7,677	\$30,706

Conference Report on the Continuation, Capital and Expansion Budgets

FY 04-05

531212	Salaries	\$387,377	\$664,348
531512	Social Sec.	\$29,634	\$50,823
531522	Retirement	\$22,352	\$38,333
531562	Medical	\$47,476	\$82,368
53XXX	Operating	\$4,250	\$6,900
	Total	\$491,089	\$842,772

1510 Financial Operations Division

80 Operating Budget Reduction (\$130,000) R
 Reduces the operating budget for computer/data processing (532821).

Budget Changes	\$424,708	R
Total Position Changes	5.00	
Revised Total Budget	\$8,002,492	

Treasurer - Retirement for Fire and Rescue Squad
Workers

GENERAL FUND

	FY 04-05	
Total Budget Approved 2003 Session	\$7,481,179	
Budget Changes		
1412 Gen. Fund Contribution to Fire Pension Fund		
81 Increase Retirement Benefits	\$665,000	R
Increases the benefits in the Firemen's and Rescue Squad Workers' Pension Fund from \$158 to \$161 per month for retirees and future retirees effective July 1, 2004.		
Budget Changes	\$665,000	R
Total Position Changes		
Revised Total Budget	\$8,146,179	

TRANSPORTATION

Section K

Transportation

GENERAL FUND

	FY 04-05
Total Budget Approved 2003 Session	\$11,402,800
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Budget Changes	
Aeronautics	
(1200) Airport Grants	
1 Reduction in Airport Grants	(\$228,056) R
Reduces State Aid to Airports by 2% from \$11,402,800 to \$11,174,744.	
<hr/>	
Budget Changes	(\$228,056) R
Total Position Changes	
Revised Total Budget	\$11,174,744
<hr/>	

Transportation

HIGHWAY FUND

FY 04-05

Total Budget Approved 2003 Session

\$1,331,524,415

Budget Changes

Administration

(0049) DMV-Driver Licensing

2 Automated Testing Equipment \$46,000 R

The Driver License Section has installed automated testing systems in 45 of its busiest offices, increasing examiner productivity. This action appropriates funds to provide automated testing systems at the following locations: Manteo, Washington, Charlotte, Roanoke Rapids, Clayton, Dunn, Garner, Fuquay-Varina, Aberdeen, Sanford, Siler City, Hillsborough, Albemarle, Lexington, Thomasville, Lincolnton, Mount Airy, Mount Holly, Statesville, Lenoir, Clyde, Kernersville, and Shelby. \$770,902 NR

3 Driver License Queuing Systems \$23,117 R

Queuing systems have been installed in 16 high volume driver license offices across the state and have reduced the time customers wait in line for service. This action provides funds for queuing systems at the following locations: South Wilmington, Charlotte, Greenville, South Fayetteville, Wilson, Smithfield, Rocky Mount, Cary, Graham High Point, and North Winston-Salem. \$378,902 NR

(0863) DENR Leaking Underground Storage Tanks

4 Adjust Continuation Budget for Leaking Underground Storage Tank Fund (LUST) \$90,000 R

Increases the distribution to the Leaking Underground Storage Tank (LUST) Fund by \$90,000 to \$6,056,665 based on an increase in revenue estimates for the gasoline inspection fee. This action is in accordance with G.S. 119-18(b).

(0867) DPI-Driver Education Funding

5 Reduce Driver Education Funding (\$659,511) R

Reduces funding by 2% for the Department of Public Instruction's Driver Education Program to \$31,857,350. The change consists of a 2.6% reduction in the per student funding (from \$251.56 to \$245.00) and an increase of 0.6% in the projected Average Daily Membership (ADM) of ninth graders to 130,030. There is wide variation among Local Education Agencies in the cost of delivering driver education and the State Board of Education is encouraging LEAs to look for the most economical and efficient ways to deliver the program.

(0869) Global TransPark

6 Reserve for Global TransPark

Provides funding to maintain current services while business plan to develop private sector support is implemented.

\$1,600,000 NR

(0871) Retirement Contributions

7 TSERS Contributions

Increases the contribution rate for fiscal year 2004-2005 to provide a 1.7% cost-of-living adjustment to retirees of the Teachers' and State Employees' Retirement System effective July 1, 2004.

\$460,800 R

8 Disability Income Plan

Reduces the State's contribution to the Disability Income Plan from .52% to .445% for the 2004-2005 fiscal year.

(\$288,000) NR

(0874) Salary Adjustment Fund

9 Increase Funds for Reclassifications

During fiscal year 2003-04, several position classification studies were conducted, approved, and funded, depleting the fiscal year 2003-2004 appropriation. This action would raise the annual appropriation by \$250,000 to \$650,000 to fund justified reclassifications.

\$250,000 R

(0879) Salary Increase for Employees

10 State Funded Compensation Increase

Provides funds to support the greater of a \$1,000 flat amount or 2.5% salary increase for full-time permanent employees whose positions are supported with Highway Fund appropriations.

\$12,250,000 R

(0890) Seed Money

11 State Infrastructure Bank

The State Infrastructure Bank (SIB) is an investment fund that offers loans to units of local government for transportation facilities and projects. Many small municipalities and other units of local government need funding for transportation projects outside the state transportation improvement plan. Borrowing from the SIB would allow local officials to advance the completion of local high priority transportation projects. The loans would require collateral. This action provides seed money from the Highway Fund to the State Infrastructure Bank.

\$750,000 NR

(0934) Reserve for General Maintenance

12 Restore General Maintenance Reserve to Fiscal Year 2003-04 Level \$9,062,928 R
 The maintenance budget in fiscal year 2003-2004 included nonrecurring funds. This action provides funding required to keep the maintenance budget from decreasing in fiscal year 2004-2005.

13 Additional Funding for General Maintenance Reserve \$12,365,663 R
 Increases continuation funding for General Maintenance Reserve to preserve and improve the condition of the State's highway transportation system.

(5180) Contingency Construction

14 Increase Funding \$5,000,000 R
 The contingency budget in fiscal year 2003-2004 included nonrecurring funds. This action provides funding to keep the contingency budget from decreasing in fiscal year 2004-2005.

(5240) Contract Resurfacing

15 Additional Funds for Contract Resurfacing \$3,244,000 R
 Provides additional funds for contract resurfacing.

(7025) Information Technology Division

16 Replacement of Older Personal Computers at DOT \$750,000 R
 Many of the computers at DOT are more than four years old and run outdated and unsupported operating systems. This action provides funding to replace approximately 1000 of the oldest personal computers at DOT at a cost of about \$750 each.

17 Reserve for Information Technology Initiatives \$4,420,191 R
 DOT's Information Technology Division provides client support, systems enhancements, maintenance, and monitoring of DOT's and DMV's large scale applications. In recent years, several mission-critical systems have been developed that now need enhancements if the department is to maintain its current level of services. This action provides a reserve to fund IT enhancements, technical services support, and network and application monitoring software.

(7030) General Services

18 Additional Funds for Utility Expenses

\$245,534 R

The Division of General Services is responsible for facility maintenance. Utility expenses have increased approximately 10% in electric rates and 40% in heating fuel rates. The current budgeted amount is inadequate to support the current level of expenditures. This action provides funding to align the utility budget with actual expenditures.

19 Additional Funds for Postage

\$231,538 R

The General Services Division administers the mail room services for the Division of Motor Vehicles (DMV). This unit processes all driver license renewal notifications, vehicle registration renewals, and all other DMV related correspondence. The current appropriation for postage and freight for DMV services is inadequate to support the current level of expenditures. This action provides funding to partially address this annual shortfall.

(7812) Construction Secondary

20 Adjust Continuation Budget for Secondary Roads Construction

\$410,000 R

Increases the distribution to Secondary Roads Construction by \$410,000 to \$91,000,000 based on a projected increase in gasoline consumption for fiscal year 2004-05 over the previous forecast. This action is in accordance with G.S. 136-44.2A.

(7813) Small Construction

21 Increase Funding

Provides additional funds to support small construction projects.

\$7,000,000 NR

(7825) Ferry Operations

22 Facility Improvements

Provides additional funding to improve terminal at Mann's Harbor.

\$1,000,000 NR

(7831) Public Transportation

23 Reduction to Enforce Legislative Intent

The 2001 General Assembly appropriated \$10 million to replace federal funds that DOT planned to redirect to the Transportation Improvement Program. Contrary to the intent of the General Assembly, DOT did not redirect the federal funds, but continued to use these funds for public transportation even as it used the replacement funds appropriated by the General Assembly for public transportation. This action reduces the public transportation budget to an amount consistent with the original intent of the General Assembly.

(\$10,000,000) NR

24 Urban and Regional Maintenance Program

The Urban and Regional Maintenance Program provides operating assistance to each of the state's 21 urban and fixed route systems. This action replaces nonrecurring and other funds available to the Department in fiscal year 2003-04.

\$5,500,000 R

25 Regional New Starts and Capital Program

The Regional New Starts and Capital Program provides state matching funds for planning and construction costs of major regional fixed guideway projects. These projects include intracity light rail, intercity commuter rail, and busways. Additional funds will support planning and environmental impact studies for the City of Charlotte's four remaining transit corridors and for the planning costs of a New Start regional project in the Triad.

\$4,063,521 R

(7836) Aid to Municipalities

26 Adjust Continuation Budget for State Aid to Municipalities

Increases the distribution of State Aid to Municipalities by \$410,000 to \$91,000,000 based on a projected increase in gasoline consumption for fiscal year 2004-05 over the previous forecast. This action is in accordance with G.S. 136-41.1.

\$410,000 R

Budget Changes	\$58,163,781	R
	\$1,211,804	NR
Total Position Changes		
Revised Total Budget	\$1,390,900,000	

**RESERVES/
DEBT SERVICE/
ADJUSTMENTS
Section L**

Reserves, Debt Service and Adjustments

GENERAL FUND

FY 04-05

Total Budget Approved 2003 Session

889,113,631

A. Employee Benefits

1 TSERS Contributions	\$9,180,000	R
Increases the contribution rate for fiscal year 2004-05 to provide a 1.7% cost-of-living adjustment to retirees of the Teachers' and State Employees' Retirement System effective July 1, 2004.		
2 CJRS Contributions	\$339,000	R
Increases the contribution rate for fiscal year 2004-05 to provide a 1.7% cost-of-living adjustment to retirees of the Consolidated Judicial Retirement System effective July 1, 2004.		
3 ALE Agent Salary Adjustment	\$376,576	R
Funding is provided to address the recommendation by the Office of State Personnel to the State Personnel Commission to implement salary reclassifications and in-range adjustments for ALE agents.		
4 SBI Agent Salary Adjustment	\$564,087	R
Funds are provided for the SBI to implement the salary adjustment request made to the Office of State Personnel in November 2003 for SBI Agent I Special Entry Rate and Corresponding Higher-Level Equity In-Ranges.		
5 Forestry LEO Salary Adjustment	\$50,725	R
Increase funds to the Division of Forestry to use for salary adjustments needed to bring salaries in-line with other law enforcement personnel.		
6 Marine Fisheries Officer Salary Adjustment	\$385,000	R
Increase funds to the Division of Marine Fisheries to use for salary adjustments needed to bring salaries in-line with other law enforcement personnel.		
7 Park Ranger Salary Adjustment	\$630,997	R
Increase funds to the Division of Parks to use for salary adjustments needed to bring salaries in-line with other law enforcement personnel.		

8 State Funded Compensation Increases

\$253,600,000 R
\$7,200,000 NR

Provide funds to support salary increases for employees of State agencies, departments and universities, community college institutions, and public schools.

- I. Certified Teaching and School Based Administrator Personnel in Local Public Schools, State Agency based Public Schools, and the NC School of Science and Math.

Teachers and Instructional Support

Funds are provided to support an experience based step increase for teachers and instructional support personnel (average salary increase of 1.83% and an increase in the teacher salary schedule of 0.67%. Teachers and Instructional support who are at the top of the experience based salary schedule will receive a one-time lump sum bonus equivalent to the average increase from Step 26 to Step 29 (1.58%).

Principals and Assistant Principals

Funds are provided to support an experience based step increase for school based administrators (avg. salary increase of 1.72% and an increase in the school based administrator salary schedule of 0.67%. School based administrators who are at the top of the salary schedule will receive a one-time lump sum bonus equivalent to 2.0%.

- II. Across-the-Board Salary Increase
Provide funds to support the greater of a \$1,000 flat amount or 2.5% annual salary increase for full-time permanent employees of agencies, departments and universities, non-certified employees of local public schools, and employees of local community college institutions supported by the State.
- III. Provide funds for an additional 2% average salary increase for Community College faculty and professional staff and provide funds to increase minimum faculty salaries currently paid to faculty below the minimum salary for their education level.

9 Disability Income Plan

Reduces the State's contribution to the Disability Income Plan from .52% to .445% for the 2004-2005 fiscal year.

(\$6,230,100) NR

B. Debt Service

- | | | |
|---|----------------|----|
| 10 Adjust Debt Service Requirements | (\$26,648,480) | R |
| Reduce funds for debt service due to increased receipts and to more accurately reflect actual requirements for principal and interest payments. | (\$57,000,000) | NR |
| 11 Debt Service Funds for New State Facilities & Land Acquisition | \$5,380,000 | R |
| Provides funds to pay debt service requirements associated with various capital improvement and land acquisition projects authorized in House Bill 1264 (Finance Vtal Projects/Studies). The General Fund will be reimbursed for the payment of debt service requirements for these projects from various special revenue funds as required by the legislation. | | |
| 12 Debt Service Funds for Falls Lake | \$460,432 | R |
| Provides funds for increased debt service requirements associated with Falls Lake improvements per repayment agreement with the federal government. | | |

C. Reserves

- | | | |
|--|----------------|---|
| 13 Senate Bill 100 Compliance | (\$11,813,949) | R |
| Adjusts agency budgets to reflect savings created by the sales tax exemption pursuant to SB 100. | | |
| 14 JDIG Reserve | \$4,500,000 | R |
| Establishes a General Fund reserve controlled by the Office of State Management and Budget from which money will be transferred to meet the cash requirements of the Job Development Investment Grant Program. | | |
| 15 Adjust Statewide Reserves | (\$8,700,000) | R |
| Adjusts statewide reserves established in the 2003 Regular Session as follows: | | |
| Compensation Increases | (900,000) | |
| Health Plan: | (900,000) | |
| Retirement System | (6,900,000) | |

D. Trust Funds

- | | | |
|--|--------------|----|
| 16 Trust Fund for MH/DD/SAS Reform | \$10,000,000 | NR |
| Provides funds to be used pursuant to G.S. 143-15.3D to continue mental health reform efforts. | | |

Total Appropriation to Reserves	\$228,304,388	R
	(\$46,030,100)	NR
Revised Total Budget	\$1,071,387,919	

CAPITAL

Section M

Capital

GENERAL FUND

FY 04-05

Department of Commerce - State Ports Authority

1 Crane Rail Replacement

Provides funds for replacement of obsolete and failing crane rail sections at the Wilmington Port to ensure safe, successful operations. \$2,000,000 NR

2 Radio Island

Provides funds to the Morehead City Port to develop and improve its operations on Radio Island. \$2,000,000 NR

Department of Environment and Natural Resources

3 Water Resources Development Projects

Provides funds for the state share of Water Resources Development Projects. Projects are specified in a special provision. \$26,492,000 NR

NC Museum of Art

4 Expansion Planning Funds

Provides funds to plan for the expansion of the NC Museum of Art, including new construction on the former Polk Youth Center site, and rehabilitation and expansion of the existing Museum building. \$2,200,000 NR

UNC System

5 Center for Design Innovation

Provides funds to the UNC Board of Governors to establish the Center for Design Innovation as a component of the National Design Institute. The Center shall be located in the Piedmont Triad Research Park and shall be established through a collaborative effort as proposed by the North Carolina School of the Arts, Winston Salem State University, Forsyth Technical Community College, North Carolina A&T State University, the University of North Carolina at Greensboro, and Guilford Technical Community College. \$2,000,000 NR

6 Winston Salem State University

Provides funds to acquire land and space in the Piedmont Triad Research Park for research laboratories and office space for the Department of Life Sciences at WSSU. \$2,000,000 NR

Conference Committee on the Continuation, Expansion, and Capital Budgets

7 NC A&T State Univ. and UNC-Greensboro Millennium Campus		
Provides funds to convert three buildings on the former campus of the Central NC School for the Deaf for use as classrooms and offices.	\$4,000,000	NR
8 NC Motorsports Testing and Research Complex		
Provides funds for planning and design of the North Carolina Motorsports Testing and Research Complex to be operated in conjunction with UNC-Charlotte's automotive and motorsports engineering program	\$2,000,000	NR
9 UNC-Wilmington School of Nursing		
Provides funds for the planning and design of a facility for the University of North Carolina at Wilmington School of Nursing.	\$500,000	NR
<hr/>		
Total Appropriation to Capital	\$43,192,000	NR
<hr/>		

NUMERICAL INDEX TO HOUSE AND SENATE BILLS

2003 GENERAL ASSEMBLY 2004 REGULAR SESSION

"Ratified Number" refers to the Session Law number except when preceded by an R, in which case it refers to the Resolution number.

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26	79	1366	23	1497	21
57	3	1369	56	1509	67
142	123	1373	26	1513	136
173	142	1385	57	1518	133
224	39	1386	9	1519	159
257	72	1401	101	1520	122
281	203	1411	1	1529	68
354	78	1414	124	1543	36
356	174	1420	138	1547	119
669	149	1422	108	1551	13
737	125	1425	29	1553	32
817	183	1426	10	1555	77
831	187	1427	150	1564	14
859	192	1429	160	1569	33
918	113	1430	110	1574	24
951	194	1433	11	1588	15
964	115	1435	R2	1589	59
965	172	1447	30	1593	42
1046	193	1448	22	1594	201
1083	143	1449	156	1602	134
1107	166	1453	198	1604	5
1112	176	1454	12	1607	25
1119	127	1455	76	1608	20
1213	152	1456	73	1613	60
1264	179	1459	116	1614	61
1303	84	1462	58	1619	34
1342	R3	1463	175	1624	147
1345	148	1464	180	1636	153
1348	120	1465	8	1640	16
1349	66	1469	112	1649	87
1352	88	1471	31	1659	62
1354	186	1474	7	1662	63
1356	197	1475	40	1665	155
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1364	28	1484	41	1668	50

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1669	69	1700	103	1732	47
1670	35	1721	95	1733	97
1671	121	1722	45	1734	104
1674	64	1723	164	1737	98
1678	43	1724	46	1795	126
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1688	102	1728	71		
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<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
3	184	1054	178	1205	90
20	162	1058	130	1209	91
51	74	1060	105	1210	163
52	154	1063	132	1218	191
64	158	1078	141	1219	48
74	135	1083	167	1225	199
137	151	1086	82	1233	53
230	190	1089	168	1244	202
277	173	1092	114	1254	89
444	118	1093	65	1265	85
464	182	1096	17	1277	54
470	139	1118	200	1279	55
486	111	1122	27	1305	99
577	128	1125	18	1312	137
582	80	1127	37	1315	100
623	2	1128	177	1343	107
657	157	1133	19	1347	92
676	171	1144	131	1355	93
732	117	1145	170	1356	86
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