

STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

2007 GENERAL ASSEMBLY

AT ITS

EXTRA SESSION 2008

BEGINNING ON

**THURSDAY, THE TWENTIETH DAY OF
MARCH, A.D. 2008**

AND AT ITS

REGULAR SESSION 2008

BEGINNING ON

**TUESDAY, THE THIRTEENTH DAY OF
MAY, A.D. 2008**

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 2007 GENERAL ASSEMBLY

BEVERLY E. PERDUE (D).....President of the Senate..... Craven
JOE HACKNEY (D)Speaker of the House Orange

EXECUTIVE BRANCH

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

MICHAEL F. EASLEY (D)Governor Brunswick
BEVERLY E. PERDUE (D).....Lieutenant Governor Craven
ELAINE F. MARSHALL (D).....Secretary of StateHarnett
LES W. MERRITT (R).Auditor Wake
RICHARD H. MOORE (D)TreasurerVance
JUNE S. ATKINSON (D)Superintendent of Public Instruction Wake
ROY A. COOPER, III (D)Attorney General..... Wake
STEVEN W. TROXLER (R).....Commissioner of Agriculture Guilford
CHERIE K. BERRY (R).....Commissioner of LaborCatawba
JAMES E. LONG (D)Commissioner of InsuranceAlamance

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.

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 R. GOINS	Sergeant-at-Arms	Raleigh, Wake County

SENATORS

District	Name	Party	County	Address
1	MARC BASNIGHT.....	D.....	Dare.....	Manteo
2	JEAN R. PRESTON	R.....	Carteret.....	Emerald Isle
3	S. CLARK JENKINS	D.....	Edgecombe.....	Tarboro
4	EDWARD W. JONES.....	D.....	Halifax.....	Enfield
5	JOHN H. KERR III	D.....	Wayne	Goldsboro
6	HARRY BROWN	R.....	Onslow	Jacksonville
7	DOUG BERGER.....	D.....	Franklin	Youngsville
8	R. C. SOLES, JR.....	D.....	Columbus	Tabor City
9	JULIA BOSEMAN	D.....	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	NEAL HUNT	R.....	Wake	Raleigh
16	JANET COWELL.....	D.....	Wake	Raleigh
17	RICHARD Y. STEVENS.....	R.....	Wake	Cary
18	ROBERT ATWATER	D.....	Chatham	Chapel Hill
19	TONY RAND.....	D.....	Cumberland.....	Fayetteville
20	FLOYD B. MCKISSICK, JR.....	D.....	Durham.....	Durham
21	LARRY SHAW	D.....	Cumberland.....	Fayetteville
22	HARRIS BLAKE	R.....	Moore	Pinehurst
23	ELEANOR KINNAIRD.....	D.....	Orange	Carrboro
24	ANTHONY E. FORIEST.....	D.....	Alamance	Graham
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	DON W. EAST	R.....	Surry.....	Pilot Mountain
31	PETER S. BRUNSTETTER	R.....	Forsyth	Lewisville
32	LINDA GARROU	D.....	Forsyth	Winston-Salem
33	STAN BINGHAM	R.....	Davidson	Denton
34	ANDREW C. BROCK	R.....	Davie	Mocksville
35	W. EDWARD GOODALL, JR.	R.....	Union.....	Weddington
36	FLETCHER L. HARTSELL, JR.	R.....	Cabarrus	Concord
37	DANIEL G. CLODFELTER.....	D.....	Mecklenburg	Charlotte
38	CHARLIE S. DANNELLY	D.....	Mecklenburg	Charlotte
39	*ROBERT PITTENGER.....	R.....	Mecklenburg	Charlotte
39	+ROBERT A. RUCHO.....	R.....	Mecklenburg	Matthews
40	MALCOLM GRAHAM.....	D.....	Mecklenburg	Charlotte
41	JAMES FORRESTER.....	R.....	Gaston	Mt. Holly
42	AUSTIN M. ALLRAN	R.....	Catawba.....	Hickory
43	DAVID W. HOYLE.....	D.....	Gaston	Dallas
44	JIM JACUMIN.....	R.....	Burke.....	Connelly Springs
45	STEVE GOSS	D.....	Watauga	Boone
46	WALTER H. DALTON	D.....	Rutherford	Rutherfordton
47	JOE SAM QUEEN	D.....	Haywood	Waynesville
48	TOM APODACA.....	R.....	Henderson	Hendersonville
49	MARTIN L. NESBITT, JR.....	D.....	Buncombe	Asheville
50	JOHN J. SNOW, JR.	D.....	Cherokee	Murphy

*Resigned May 27, 2008

+Appointed June 9, 2008

HOUSE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
JOE HACKNEY	Speaker	Chapel Hill, Orange County
WILLIAM L. WAINWRIGHT	Speaker Pro Tempore	Havelock, Craven County
DENISE G. WEEKS.....	Principal Clerk.....	Raleigh, 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	TIMOTHY L. SPEAR.....	D.....	Washington	Creswell
3	ALICE GRAHAM UNDERHILL	D.....	Craven	New Bern
4	RUSSELL E. TUCKER.....	D.....	Duplin.....	Pink Hill
5	ANNIE W. MOBLEY.	D.....	Hertford	Ahoskie
6	ARTHUR J. WILLIAMS.....	D.....	Beaufort.....	Washington
7	ANGELA R. BRYANT.....	D.....	Nash	Rocky Mount
8	EDITH D. WARREN	D.....	Pitt	Farmville
9	MARIAN N. MCLAWHORN.....	D.....	Pitt	Grifton
10	R. VAN BRAXTON.....	D.....	Lenoir	Kinston
11	LOUIS M. PATE, JR.....	R.....	Wayne	Mt. Olive
12	WILLIAM L. WAINWRIGHT	D.....	Craven	Havelock
13	PAT MCELRAFT	R.....	Carteret.....	Emerald Isle
14	GEORGE G. CLEVELAND.....	R.....	Onslow	Jacksonville
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
18	+SANDRA SPAULDING HUGHES.....	D.....	New Hanover	Wilmington
19	DANIEL F. MCCOMAS.....	R.....	New Hanover	Wilmington
20	DEWEY L. HILL.....	D.....	Columbus	Whiteville
21	LARRY M. BELL.....	D.....	Sampson	Clinton
22	WILLIAM D. BRISSON	D.....	Bladen	Dublin
23	JOE P. TOLSON	D.....	Edgecombe.....	Pinetops
24	JEAN FARMER-BUTTERFIELD	D.....	Wilson	Wilson
25	WILLIAM G. DAUGHTRIDGE, JR.	R.....	Nash	Rocky Mount
26	N. LEO DAUGHTRY	R.....	Johnston	Smithfield
27	MICHAEL H. WRAY	D.....	Northampton	Gaston
28	JAMES H. LANGDON, JR.....	R.....	Johnston	Angier
29	LARRY D. HALL.....	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	DANIEL T. BLUE, JR.....	D.....	Wake	Raleigh
34	D. GRIER MARTIN, III.....	D.....	Wake	Raleigh
35	JENNIFER WEISS	D.....	Wake	Cary
36	J. NELSON DOLLAR.....	R.....	Wake	Cary
37	PAUL STAM.....	R.....	Wake	Apex
38	DEBORAH K. ROSS.....	D.....	Wake	Raleigh
39	LINDA COLEMAN	D.....	Wake	Knightdale
40	MARILYN AVILA.....	R.....	Wake	Raleigh
41	TY HARRELL.....	D.....	Wake	Raleigh
42	MARVIN W. LUCAS.....	D.....	Cumberland.....	Spring Lake
43	MARY E. MCALLISTER.....	D.....	Cumberland.....	Fayetteville
44	MARGARET HIGHSMITH DICKSON.....	D.....	Cumberland.....	Fayetteville
45	RICK GLAZIER	D.....	Cumberland.....	Fayetteville
46	DOUGLAS Y. YONGUE	D.....	Scotland.....	Laurinburg
47	RONNIE N. SUTTON	D.....	Robeson.....	Pembroke
48	GARLAND E. PIERCE.....	D.....	Scotland.....	Wagram
49	LUCY T. ALLEN	D.....	Franklin	Louisburg
50	BILL FAISON	D.....	Orange	Durham
51	JIMMY L. LOVE, SR.....	D.....	Lee.....	Sanford
52	JOE BOYLAN	R.....	Moore	Pinehurst
53	DAVID R. LEWIS	R.....	Harnett.....	Dunn
54	JOE HACKNEY.....	D.....	Orange	Chapel Hill
55	W.A. (WINKIE) WILKINS	D.....	Person.....	Roxboro
56	VERLA C. INSKO	D.....	Orange	Chapel Hill
57	MARY PRICE TAYLOR HARRISON.....	D.....	Guilford.....	Greensboro
58	ALMA S. ADAMS.....	D.....	Guilford.....	Greensboro

59	MAGGIE JEFFUS	D.....	Guilford	Greensboro
60	EARL JONES	D.....	Guilford	Greensboro
61	LAURA I. WILEY	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	MELANIE WADE GOODWIN	D.....	Richmond	Rockingham
67	KEN R. FURR.....	R.....	Stanly	Albemarle
68	J. CURTIS BLACKWOOD, JR.	R.....	Union.....	Matthews
69	PRYOR A. GIBSON, III.....	D.....	Anson	Wadesboro
70	PAT B. HURLEY	R.....	Randolph	Asheboro
71	LARRY W. WOMBLE.....	D.....	Forsyth	Winston-Salem
72	EARLINE W. PARMON.....	D.....	Forsyth	Winston-Salem
73	LARRY R. BROWN.....	R.....	Forsyth	Kernersville
74	DALE R. FOLWELL.....	R.....	Forsyth	Winston-Salem
75	WILLIAM C. MCGEE.....	R.....	Forsyth	Clemmons
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	JEFFREY L. BARNHART.....	R.....	Cabarrus	Concord
83	LINDA P. JOHNSON	R.....	Cabarrus	Kannapolis
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	Hickory
88	RAY WARREN.....	D.....	Alexander	Hiddenite
89	MITCHELL S. SETZER.....	R.....	Catawba.....	Catawba
90	JAMES A. HARRELL, III	D.....	Surry	Elkin
91	BRYAN R. HOLLOWAY	R.....	Stokes	King
92	GEORGE M. HOLMES	R.....	Yadkin	Hamptonville
93	CULLIE M. TARLETON	D.....	Watauga	Blowing Rock
94	R. TRACY WALKER.....	R.....	Wilkes	Wilkesboro
95	KAREN B. RAY.....	R.....	Iredell	Mooreville
96	MARK K. HILTON	R.....	Catawba.....	Conover
97	JOE L. KISER	R.....	Lincoln	Vale
98	THOM TILLIS.....	R.....	Mecklenburg	Huntersville
99	DREW P. SAUNDERS	D.....	Mecklenburg	Huntersville
100	TRICIA ANN COTHAM.....	D.....	Mecklenburg	Charlotte
101	BEVERLY M. EARLE	D.....	Mecklenburg	Charlotte
102	BECKY CARNEY.....	D.....	Mecklenburg	Charlotte
103	JIM GULLEY	R.....	Mecklenburg	Matthews
104	RUTH C. SAMUELSON.....	R.....	Mecklenburg	Charlotte
105	RICHARD D. KILLIAN.....	R.....	Mecklenburg	Charlotte
106	MARTHA B. ALEXANDER	D.....	Mecklenburg	Charlotte
107	**W. PETE CUNNINGHAM	D.....	Mecklenburg	Charlotte
107	++KELLY M. ALEXANDER, JR.	D.....	Mecklenburg	Charlotte
108	WIL NEUMANN	R.....	Gaston	Belmont
109	WILLIAM A. CURRENT, SR.	R.....	Gaston	Gastonia
110	DEBBIE A. CLARY.....	R.....	Cleveland	Cherryville
111	TIM MOORE	R.....	Cleveland	Shelby
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	CHARLES C. THOMAS	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
*	Expelled March 20, 2008.....	+	Appointed April 8, 2008	
**	Resigned December 31, 2007.....	++	Appointed May 30, 2008	

LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE MARC BASNIGHT, *COCHAIR*

HOUSE SPEAKER JOE HACKNEY, *COCHAIR*

SEN. THOMAS M. APODACA
SEN. LINDA D. GARROU
SEN. VERNON MALONE
SEN. ANTHONY E. RAND
SEN. LARRY SHAW
SEN. R.C. SOLES, JR.
SEN. JERRY W. TILLMAN

REP. DANIEL T. BLUE, JR.
REP. HAROLD J. BRUBAKER
REP. E. NELSON COLE
REP. JULIA CRAVEN HOWARD
REP. JOE LEONARD KISER
REP. WILLIAM CLARENCE OWENS, JR.
REP. WILLIAM L. WAINWRIGHT

LEGISLATIVE SERVICES STAFF DIRECTORS

GEORGE R. HALL, JR..... Legislative Services Officer
*TONY C. GOLDMAN Director of the Administrative Division
GERRY F. COHEN Director of the Bill Drafting Division
*LYNN R. MUCHMORE..... Director of the Fiscal Research Division
+SUSAN MORGAN Interim Director of the Fiscal Research Division
DENNIS W. MCCARTY Director of the Information Systems Division
JOHN W. TURCOTTE..... Director of the Program Evaluation Division
**TERRENCE D. SULLIVAN Director of the Research Division
++KORY J. GOLDSMITH Interim Director of the Research Division

* Retired July 31, 2008
** Retired February 29, 2008

+Appointed interim director August 1, 2008
++ Appointed interim director March 1, 2008

SESSION LAWS
OF THE
STATE OF NORTH CAROLINA

EXTRA SESSION 2008*
REGULAR SESSION 2008

Session Law 2008-1

H.B. 710

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO PROVIDE THAT COUNCIL VACANCIES ARE FILLED UNDER GENERAL LAW, AND TO PROVIDE THAT THE MAYOR PRO TEMPORE SERVES AT THE PLEASURE OF THE CITY COUNCIL, THE SAME AS UNDER THE GENERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2(d) of the Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, as added by Chapter 896 of the 1985 Session Laws, is repealed.

SECTION 2. Section 3.5 of the Charter of the City of Wilmington, being Chapter 495 of the Session Laws of 1977, reads as rewritten:

"Sec. 3.5. Mayor pro tempore; duties; term. At its organizational meeting the council shall elect one of its members mayor pro tempore, to preside in the absence of the mayor and to act as mayor in the absence or during the disability of the mayor. In the event of a vacancy in the office of the mayor, the mayor pro tempore shall act as mayor until a mayor is elected by the council pursuant to Section 3.3 of this Article. ~~The term of office of the mayor pro tempore shall be two years.~~ shall serve at the pleasure of the council."

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

In the General Assembly read three times and ratified this the 9th day of June, 2008.

Became law on the date it was ratified.

* Refer to the 2008 Resolutions section.

Session Law 2008-2

S.B. 1480

AN ACT TO DIRECT THE DEPARTMENT OF CORRECTION AND THE POST-RELEASE SUPERVISION AND PAROLE COMMISSION TO PROVIDE FOR MEDICAL RELEASE OF NO-RISK INMATES WHO ARE EITHER PERMANENTLY AND TOTALLY DISABLED, TERMINALLY ILL, OR GERIATRIC.

The General Assembly of North Carolina enacts:

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

"Article 84B.

"Medical Release of Inmates.

"§ 15A-1369. Definitions.

For purposes of this Article, the term:

- (1) "Commission" means the Post-Release Supervision and Parole Commission.
- (2) "Department" means the Department of Correction.
- (3) "Geriatric" describes an inmate who is 65 years of age or older and suffers from chronic infirmity, illness, or disease related to aging that has progressed such that the inmate is incapacitated to the extent that he or she does not pose a public safety risk.
- (4) "Inmate" means any person sentenced to the custody of the Department of Correction.
- (5) "Medical release" means a program enabling the Commission to release inmates who are permanently and totally disabled, terminally ill, or geriatric.
- (6) "Medical release plan" means a comprehensive written medical and psychosocial care plan that is specific to the inmate and includes, at a minimum:
 - a. The proposed course of treatment;
 - b. The proposed site for treatment and post-treatment care;
 - c. Documentation that medical providers qualified to provide the medical services identified in the medical release plan are prepared to provide those services; and
 - d. The financial program in place to cover the cost of this plan for the duration of the medical release, which shall include eligibility for enrollment in commercial insurance, Medicare, or Medicaid or access to other adequate financial resources for the duration of the medical release.
- (7) "Permanently and totally disabled" describes an inmate who, as determined by a licensed physician, suffers from permanent and irreversible physical incapacitation as a result of an existing physical or medical condition that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate permanently and totally disabled, such that the inmate does not pose a public safety risk.
- (8) "Terminally ill" describes an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that

was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within six months, and that is so debilitating such that the inmate does not pose a public safety risk.

"§ 15A-1369.1. Authority to release.

The Commission shall establish a medical release program to be administered by the Department. The Commission shall prescribe when and under what conditions an inmate may be released for medical release, consistent with the provisions of G.S. 15A-1369.4. The Commission may adopt rules to implement the medical release program.

"§ 15A-1369.2. Eligibility.

(a) Except as otherwise provided in this section, notwithstanding any other provision of law, an inmate is eligible to be considered for medical release if the Department determines that the inmate is:

- (1) Diagnosed as permanently and totally disabled, terminally ill, or geriatric under the procedure described in G.S. 15A-1369.3(b)(1); and
- (2) Incapacitated to the extent that the inmate does not pose a public safety risk.

(b) Persons convicted of a capital felony or a Class A, B1, or B2 felony and persons convicted of an offense that requires registration under Article 27A of Chapter 14 of the General Statutes shall not be eligible for release under this Article.

"§ 15A-1369.3. Procedure for medical release.

(a) The Commission shall consider an inmate for medical release upon referral by the Department. The Department may base its referral upon either a request or petition for release filed by the inmate, the inmate's attorney, or the inmate's next of kin or upon a recommendation from within the Department.

(b) The referral shall include an assessment of the inmate's medical and psychosocial condition and the risk the inmate poses to society, as follows:

- (1) The Department medical director, or a designee of the director who is a licensed physician, shall review the case of each inmate who meets the eligibility requirements for medical release set forth in G.S. 15A-1369.2. Any physician who examines an inmate being considered for medical release shall prepare a written diagnosis that includes:

 - a. A description of any and all terminal conditions, physical incapacities, and chronic conditions; and
 - b. A prognosis concerning the likelihood of recovery from any and all terminal conditions, physical incapacities, and chronic conditions.
- (2) The Department shall make an assessment of the risk for violence and recidivism that the inmate poses to society. In order to make this assessment, the Department may consider such factors as the inmate's medical condition, the severity of the offense for which the inmate is incarcerated, the inmate's prison record, and the release plan.

(c) If the Department determines that the inmate meets the criteria for release, the Department shall forward its referral and medical release plan for the inmate to the Commission. The Department shall complete the risk assessment and forward its referral and medical release plan within 45 days of receiving a request, petition, or recommendation for release.

(d) The Commission shall make a determination of whether to grant medical release within 15 days of receiving a referral from the Department for release of a terminally ill inmate and within 20 days of receiving a referral from the Department for release of a permanently and totally disabled inmate or a geriatric inmate. In making the determination, the Commission shall make an independent assessment of the risk for violence and recidivism that the inmate poses to society. The Commission also shall provide the victim or victims of the inmate or the victims' family or families with an opportunity to be heard.

(e) A denial of medical release by the Commission shall not affect an inmate's eligibility for any other form of parole or release under applicable law.

(f) If the Department determines that an inmate should not be considered for release under this Article or the Commission denies medical release under this Article, the inmate may not reapply or be reconsidered unless there is a demonstrated change in the inmate's medical condition.

"§ 15A-1369.4. Conditions of medical release.

(a) The Commission shall set reasonable conditions upon an inmate's medical release that shall apply through the date upon which the inmate's sentence would have expired. These conditions shall include:

- (1) That the released inmate's care be consistent with the care specified in the medical release plan as approved by the Commission;
- (2) That the released inmate shall cooperate with and comply with the prescribed medical release plan and with reasonable requirements of medical providers to whom the released inmate is to be referred to continued treatment;
- (3) That the released inmate shall be subject to supervision by the Division of Community Corrections and shall permit officers from the Division to visit the inmate at reasonable times at the inmate's home or elsewhere;
- (4) That the released inmate shall comply with any conditions of release set by the Commission; and
- (5) That the Commission shall receive periodic assessments from the inmate's treating physician.

(b) The Commission shall promptly order an inmate returned to the custody of the Department to await a revocation hearing if the Commission receives credible information that an inmate has failed to comply with any reasonable condition set upon the inmate's release. If the Commission subsequently revokes an inmate's medical release for failure to comply with conditions of release, the inmate shall resume serving the balance of the sentence with credit given only for the duration of the inmate's medical release served in compliance with all reasonable conditions set forth pursuant to subsection (a) of this section. Revocation of an inmate's medical release for violating a condition of release shall not preclude an inmate's eligibility for any other form of parole or release provided by law but may be used as a factor in determining eligibility for that parole or release.

"§ 15A-1369.5. Change in medical status.

(a) If a periodic medical assessment reveals that an inmate released on medical release has improved so that the inmate would not be eligible for medical release if being considered at that time, the Commission shall order the inmate returned to the custody of the Department to await a revocation hearing. In determining whether to revoke medical release, the Commission shall consider the most recent medical

assessment of the inmate and a risk assessment of the inmate conducted pursuant to G.S. 15A-1369.3(b)(2). If the Commission revokes the inmate's medical release, the inmate shall resume serving the balance of the sentence with credit given for the duration of the medical release.

(b) Revocation of an inmate's medical release due to a change in the inmate's medical condition shall not preclude an inmate's eligibility for medical release in the future or for any other form of parole or release provided by law."

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

In the General Assembly read three times and ratified this the 2nd day of June, 2008.

Became law upon approval of the Governor at 11:48 a.m. on the 10th day of June, 2008.

Session Law 2008-3

H.B. 1195

AN ACT TO PROVIDE A PROCEDURE TO RECALL ELECTED OFFICIALS IN THE TOWN OF PLEASANT GARDEN.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Pleasant Garden, being Session Law 1997-344, as amended by Session Laws 1998-205, 1999-57, and 1999-331, is amended by adding a new Chapter to read:

"CHAPTER VI.

"RECALL OF ELECTED OFFICIALS.

"Sec. 6-1. The Mayor and any member of the Town Council of the Town of Pleasant Garden may be removed from office in the manner provided for in this act.

"Sec. 6-2. Any registered voter of the Town may file an affidavit with the Guilford County Director of Elections containing the name of the elected official whose removal is sought and a general statement of the grounds alleged for removal. The Director of Elections shall provide the registered voter filing the affidavit with petition forms for demanding the removal of a Town elected official. The petition forms shall:

- (1) Be signed by the Director of Elections.
- (2) Be dated on the date of issuance.
- (3) Be addressed to the Guilford County Board of Elections.
- (4) Contain the name of the person to whom the form is issued.
- (5) Contain the name of the official whose removal is sought.
- (6) Contain a general statement of the grounds on which the removal is sought.
- (7) Provide a place for signatures.

The Director of Elections shall promptly deliver a copy of the petition issued by the Director of Elections to the Town Clerk, who shall enter the copy of the petition in a record book kept for that purpose. The record book shall be maintained at the Office of the Clerk.

"Sec. 6-3. To be effective, a recall petition must be returned to the Board of Elections within 30 days after the filing of the affidavit. To be sufficient, a recall petition must bear the signatures of at least thirty-three percent (33%) of the registered voters of the Town as shown by the registration records of the last preceding general municipal election.

"Sec. 6-4. The signatures to the petition need not all be appended to one paper. Each signer shall add his or her signature and the signer's place of residence, giving the residence address including town. One of the signers of each paper shall take an oath before an officer competent to administer oaths that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

"Sec. 6-5. The Board of Elections shall investigate the sufficiency of any petition and certify the results of the investigation to the Town Council. The Board of Elections may employ persons as it deems necessary to undertake that investigation. The Town Council shall reimburse the Board of Elections for the reasonable cost of the investigation. The Board of Elections may adopt rules concerning the validation of signatures appearing on the recall petition.

"Sec. 6-6. The Board of Elections shall complete its investigation and issue its certification of the results of the investigation within 15 days after the filing of any petition. If, by the Board of Elections' certification, the petition is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The Board shall, within 10 days after any amendment, complete an investigation of the amended petition. If the certification of the results of the investigation shows the amended petition to be insufficient, a copy of the petition shall be returned to the person filing the petition, without prejudice to the filing of a new petition.

"Sec. 6-7. Upon a determination that a sufficient recall petition has been submitted, the Board of Elections shall submit the petition to the Town Clerk, who shall submit it to the Town Council and shall notify the officer whose removal is sought. If the officer whose removal is sought does not resign within five days after receiving the notice, the Town Council shall order and fix a date for holding a recall election. Subject to the remaining provisions of this section, an election shall be held not less than 90 nor more than 120 days after the petition has been certified as being sufficient. If any other general or special election is scheduled within this period, the Town Council shall schedule the special election at the same time. If the provisions of general law prohibit the holding of a special election during this time period and no general or special election is otherwise scheduled during that period of time, then the Town Council shall schedule the special recall election for a date within 10 days after the last day of the period of time during which special elections are prohibited by general law.

"Sec. 6-8. The Board of Elections shall cause legal notice of the election to be published. That notice shall include the general statement of the grounds on which the recall is sought as alleged in the affidavit and shall make all arrangements for holding the election in accordance with general law. The recall election shall be conducted, returned, and the results declared as in other elections in Pleasant Garden. The Town shall reimburse the reasonable costs of the recall election to the Board of Elections.

"Sec. 6-9. The question of recalling any number of officials may be submitted at the same election. But as to each such official, a separate petition shall be filed and there shall be an entirely separate ballot.

"Sec. 6-10. The ballots used in a recall election shall submit the following proposition:

" FOR AGAINST

The recall of (name and title of official)."

"Sec. 6-11. If less than a majority of the votes cast on the question of recalling an official are for recall, the official shall continue in office for the remainder of the unexpired term and, except as provided by Section 13 of this act, shall be subject to the

recall as before. If a majority of such votes are for the recall of the official designated on the ballot, the official shall be deemed removed from office.

"Sec. 6-12. If an official concerning whom a sufficient recall petition is submitted to the Town Council resigns before the recall election or is removed from office as a result of the recall election, the vacancy shall be filled in the manner provided by law for filling vacancies in that office. An official removed from office by the voters as a result of a recall election shall not be appointed to fill the vacancy caused by that official's own removal or resignation.

"Sec. 6-13. No recall petition shall be filed against an officer who has been subjected to a recall election, and not removed thereby, until at least six months after that recall election. No recall petition shall be filed against an officer during the first three months of the term of that office.

"Sec. 6-14. If the recalls of a majority of the members of the Town Council are effected at a single recall election, the successors of the officers recalled shall be elected by the registered voters of the Town at a special municipal election, and the successors shall serve for the remainder of the terms of the officers recalled. The members of the Town Council who have not been recalled shall call that special election, which shall be conducted by the Guilford County Board of Elections under the laws then governing elections in the State. If the recall of all the members of the Town Council is effected at a single election, they shall continue in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as provided in this section. That election shall also be conducted by the Guilford County Board of Elections under the laws then governing elections in the State."

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

In the General Assembly read three times and ratified this the 12th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-4

H.B. 2189

AN ACT TO PROVIDE DOMESTIC VIOLENCE VICTIMS WITH INFORMATION AND ASSISTANCE AND TO STUDY A STATEWIDE AUTOMATED NOTIFICATION SYSTEM FOR PERSONS WITH DOMESTIC VIOLENCE PROTECTIVE ORDERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-831 reads as rewritten:

"§ 15A-831. **Responsibilities of law enforcement agency.**

(a) As soon as practicable but within 72 hours after identifying a victim covered by this Article, the investigating law enforcement agency shall provide the victim with the following information:

- (1) The availability of medical services, if needed.
- (2) The availability of crime victims' compensation funds under Chapter 15B of the General Statutes and the address and telephone number of the agency responsible for dispensing the funds.
- (3) The address and telephone number of the district attorney's office that will be responsible for prosecuting the victim's case.

- (4) The name and telephone number of an investigating law enforcement agency employee whom the victim may contact if the victim has not been notified of an arrest in the victim's case within six months after the crime was reported to the law enforcement agency.
- (5) Information about an accused's opportunity for pretrial release.
- (6) The name and telephone number of an investigating law enforcement agency employee whom the victim may contact to find out whether the accused has been released from custody.
- (7) The informational sheet described in G.S. 50B-3(c1), if there was a personal relationship, as defined in G.S. 50B-1(b), with the accused.

(b) As soon as practicable but within 72 hours after the arrest of a person believed to have committed a crime covered by this Article, the arresting law enforcement agency shall inform the investigating law enforcement agency of the arrest. As soon as practicable but within 72 hours of being notified of the arrest, the investigating law enforcement agency shall notify the victim of the arrest.

(c) As soon as practicable but within 72 hours after receiving notification from the arresting law enforcement agency that the accused has been arrested, the investigating law enforcement agency shall forward to the district attorney's office that will be responsible for prosecuting the case the defendant's name and the victim's name, address, date of birth, social security number, race, sex, and telephone number, unless the victim refuses to disclose any or all of the information, in which case, the investigating law enforcement agency shall so inform the district attorney's office.

(d) Upon receiving the information in subsection (a) of this section, the victim shall, on a form provided by the investigating law enforcement agency, indicate whether the victim wishes to receive any further notices from the investigating law enforcement agency on the status of the accused during the pretrial process. If the victim elects to receive further notices during the pretrial process, the victim shall be responsible for notifying the investigating law enforcement agency of any changes in the victim's name, address, and telephone number."

SECTION 2. The North Carolina Domestic Violence Commission, in consultation with the North Carolina Coalition Against Domestic Violence, the North Carolina Attorney General's Office, and the Governor's Crime Commission, shall study the adoption of a statewide automated victim notification system for persons who have received a protective order under Chapter 50B of the General Statutes. As part of its study of this issue, the Domestic Violence Commission shall review:

- (1) Automated notification systems used in other state jurisdictions to notify protective order holders of critical dates, e.g., the date the respondent, if incarcerated, will be released from custody.
- (2) Data, if any, on the effectiveness of other state systems.
- (3) The current statewide system which provides automated notice to crime victims (SAVAN), to determine if it could be enhanced to include the proposed system.
- (4) Sources of grant funding that are available to implement the system.
- (5) Methods utilized for registering into the system, and whether the information should be accessible to the general public, in addition to the person or persons protected by the order.
- (6) Methods to ensure that information relating to the respondent of an order is uploaded in a timely manner and to confirm that notification has been sent to registrants.

The North Carolina Domestic Violence Commission shall report with the results of its study, and any recommendations, to the Joint Legislative Committee on Domestic Violence and the General Assembly on or before January 1, 2009.

SECTION 3. This act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 12th day of June, 2008.

Became law upon approval of the Governor at 11:54 a.m. on the 17th day of June, 2008.

Session Law 2008-5

S.B. 1579

AN ACT AUTHORIZING THE TOWN OF CARY TO USE ELECTRONIC MEANS TO PROVIDE PUBLIC NOTICE FOR CERTAIN PUBLIC HEARINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 and 2 of S.L. 2007-86 read as rewritten:

"**SECTION 1.** The governing body of a city or town may adopt ordinances providing that notice of public hearings may be given through electronic means, including, but not limited to, the Town's Internet site. Ordinances adopted pursuant to this section shall not supersede any State law that requires notice by mail to certain classes of people or the posting of signs on certain property and shall not alter the publication schedule for any public notice.

"**SECTION 2.** This act applies only to the Towns of Apex, Cary, Garner, and Knightdale."

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

In the General Assembly read three times and ratified this the 17th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-6

S.B. 1653

AN ACT AUTHORIZING THE CITIES OF LOUISBURG AND MOUNT AIRY AND THE TOWNS OF FRANKLINTON, PINETOPS, SMITHFIELD, AND YADKINVILLE TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-200(b) reads as rewritten:

"(b) This section applies to the Towns of Ahoskie, Ayden, Franklinton, Leland, Pineville, Pinetops, Smithfield, ~~and Spring Lake~~, Spring Lake, and Yadkinville and to the Cities of Durham, Eden, Gastonia, Greensboro, High Point, Lexington, Louisburg, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Rockingham, Rocky Mount, and Winston-Salem only."

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

In the General Assembly read three times and ratified this the 23rd day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-7**S.B. 2136**

AN ACT TO EXEMPT THE CITY OF CONCORD FROM STATUTORY REQUIREMENTS GOVERNING PUBLIC CONTRACTING WITH RESPECT TO THE CONSTRUCTION OF CERTAIN INFRASTRUCTURE PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Concord may contract for construction of the Speedway Area Infrastructure Projects without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132 provided that:

- (1) The City Council adopts a resolution approving the exemption of the Speedway Area Infrastructure Projects from the competitive bidding requirements of Article 8 of Chapter 143 of the General Statutes.
- (2) The City Council complies with the minority business participation requirements set forth in Article 8 of Chapter 143 of the General Statutes.
- (3) The City Council conducts an annual independent audit of all contracts for construction work that would otherwise be subject to the competitive bidding requirements of Article 8 of Chapter 143 of the General Statutes.
- (4) The City Council makes public any contracts awarded pursuant to this act.
- (5) The City Council, after awarding a contract pursuant to this act, prepares, places in the public files, and makes available to the public a document setting forth the reasons for using the authority granted by this act to award the contract.
- (6) The Speedway Area Infrastructure Projects comply with all applicable zoning and land use regulations.

SECTION 2. The City of Concord may contract with public and/or private entities that may design and construct portions of the Speedway Area Infrastructure Projects, provided the City Council finds that:

- (1) The exemption is intended to promote the general welfare rather than the benefit of the individual.
- (2) There is a reasonable basis for the City Council to conclude the granting of the exemption serves the public interest.

SECTION 3. This act is effective when it becomes law, and expires December 31, 2013. The expiration does not impair any contracts entered into on or before December 31, 2013.

In the General Assembly read three times and ratified this the 23rd day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-8**S.B. 1989**

AN ACT TO ESTABLISH A SEASON FOR THE TRAPPING OF FOXES IN CRAVEN COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping from January 2 through February 28 of each year.

SECTION 2. No season bag limit applies to foxes taken under this act.

SECTION 3. The North Carolina Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act.

SECTION 4. This act applies only to Craven County.

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

In the General Assembly read three times and ratified this the 24th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-9

S.B. 2138

AN ACT TO REPEAL AN AMENDMENT TO THE CHARTER OF THE TOWN OF STONEVILLE PROVIDING FOR FOUR-YEAR TERMS FOR THE MAYOR AND MEMBERS OF THE TOWN COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 1998-107 is repealed.

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, 2008.

Became law on the date it was ratified.

Session Law 2008-10

S.B. 1872

AN ACT TO EXTEND THE STUDY OF THE ALLOCATION OF WATER RESOURCES AND THEIR AVAILABILITY AND MAINTENANCE IN THE STATE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, the Environmental Review Commission and the University of North Carolina at Chapel Hill School of Government acknowledge that an extension of time is necessary in order to complete the work of the Water Allocation Study contemplated in the contract between the two parties and the work identified in Section 1(a) of S.L. 2007-518; and

Whereas, the University of North Carolina School of Government acknowledges in its Interim Report to the Environmental Review Commission that further work will be required beyond 2008 given the scope and importance of the study; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(a) of S.L. 2007-518 reads as rewritten:

"SECTION 1.(a) The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall study the allocation of surface water resources and their availability and maintenance in the State, including issues related to the transfer of water from one river basin to another, the withdrawal of water for consumptive use, and the accuracy and tolerance of equipment used to

measure the flow of water transferred from one river basin to another river basin. The Commission shall evaluate the benefits of establishing formal and informal procedures for negotiating transfers of water from one river basin to another. The Commission shall also study and recommend measures to: (i) ensure that the purposes of the Regional Water Supply Planning Act of 1971, as set out in G.S. 162A-21, are fulfilled; (ii) provide for a comprehensive system for regulating surface water withdrawals for consumptive and nonconsumptive uses; (iii) provide for the establishment of a statewide plan for water resources development projects; (iv) provide for adequate resources for the Department so that it may develop and implement a comprehensive approach to water resources management; (v) ensure that all State laws regulating water resources are consistent with and fully integrated into the comprehensive system for regulating surface water withdrawals and the statewide plan for water resources development projects; and (vi) ensure that potential interstate conflicts related to water resources are avoided or minimized. In the conduct of this study, the Environmental Review Commission may employ independent consultants as provided in G.S. 120-32.02 and G.S. 120-70.44. The Environmental Review Commission may submit ~~an interim report~~ reports to the 2008 and 2009 Regular Session regular sessions of the General Assembly and shall submit a final report of its findings and recommendations, including any legislative proposals, to the ~~2009~~ 2009 General Assembly on or before 1 October 2010."

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, 2008.

Became law upon approval of the Governor at 2:00 p.m. on the 25th day of June, 2008.

Session Law 2008-11

S.B. 1862

AN ACT TO REMOVE A PORTION OF LAKE WACCAMAW STATE PARK FROM THE STATE NATURE AND HISTORIC PRESERVE AND THE STATE PARKS SYSTEM TO ALLOW FOR BRIDGE REALIGNMENT ON BELLA COOLA ROAD, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-260.10 reads as rewritten:

"§ 143-260.10. **Components of State Nature and Historic Preserve.**

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

- (1) All lands and waters within the boundaries of the following units of the State Parks System as of 1 May 2007: 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, Carvers Creek State Park, Chimney Rock State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Park, Elk Knob State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Haw River State Park, Hammocks Beach State Park, Jones Lake State Park, Lake Norman State Park, ~~Lake Waccamaw State Park~~, Lea Island State

Natural Area, Lower Haw River State Natural Area, Lumber River State Park, Mayo River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Mitchell State Park, Mountain Bog State Natural Area, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Sandy Run Savannas State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

...

- (20) All lands and waters within the boundaries of Lake Waccamaw State Park as of May 1, 2007, with the exception of the following tracts: The portions of that certain tract or parcel of land at Lake Waccamaw State Park in Columbus County described in Deed Book 835, Page 590, containing 48,210 square feet and being the portion of this tract shown as new R/W and permanent utility easement on drawing prepared by State of North Carolina Department of Transportation entitled "Map of Proposed Right of Way Property of State of North Carolina (Parks and Recreation) Columbus County" for Tip B-3830 on SR 1947 (Bella Coola Road) done by John E. Kaukola, PLS No. 3999 and compiled 1-18-2008, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section 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 Lake Waccamaw State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land."

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

In the General Assembly read three times and ratified this the 16th day of June, 2008.

Became law upon approval of the Governor at 2:05 p.m. on the 25th day of June, 2008.

Session Law 2008-12

H.B. 724

AN ACT TO NO LONGER REQUIRE THE USE OF SOCIAL SECURITY NUMBERS ON NORTH CAROLINA CHILD SUPPORT COURT ORDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.4 reads as rewritten:

"§ 50-13.4. **Action for support of minor child.**

...

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

(h) Child support orders initially entered or modified on and after October 1, 1998, shall contain the name of each of the parties, the date of birth of each party, the

~~social security number of each party,~~ and the court docket number. The Administrative Office of the Courts shall transmit to the Department of Health and Human Services, Child Support Enforcement Program, on a timely basis, the information required to be included on orders under this ~~subsection~~ subsection and the social security number of each party as required under subsection (g) of this section."

SECTION 2. This act is effective October 1, 2008.

In the General Assembly read three times and ratified this the 16th day of June, 2008.

Became law upon approval of the Governor at 2:07 p.m. on the 25th day of June, 2008.

Session Law 2008-13

S.B. 1646

AN ACT TO PROVIDE FOR THE ORDERLY FISCAL MANAGEMENT OF ANY MONETARY SETTLEMENT OF THE 1943 AGREEMENT BETWEEN SWAIN COUNTY AND THE UNITED STATES DEPARTMENT OF INTERIOR.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative Findings. – It is hereby determined and declared as a matter of legislative finding that:

- (1) Flooding caused by the construction of Fontana Dam destroyed a road that had been constructed with road bonds which had been assumed by Swain County.
- (2) The United States Department of Interior and the Tennessee Valley Authority entered into an agreement in 1943 with Swain County and the State of North Carolina to compensate Swain County for this loss by, among other obligations, constructing a new road, which would traverse the Great Smoky Mountains National Park.
- (3) The promised road has not been built. Early attempts to construct the road were abandoned by the National Park Service because of the expense involved and concerns about environmental impacts.
- (4) In 2007, the National Park Service concluded, after completing a full environmental impact statement of the road proposal, that construction of the road would have unacceptable impacts to the natural environment in the Great Smoky Mountains National Park. The National Park Service instead has endorsed an alternative proposal, also supported by Swain County, to negotiate a monetary settlement of the United States' unfulfilled obligations under its 1943 agreement with Swain County.
- (5) The proposed monetary settlement of the 1943 agreement between Swain County and the United States Department of Interior is an unprecedented opportunity to provide for the future prosperity of the people of Swain County.
- (6) Appropriate fiscal management of this significant monetary settlement requires authority and programs not currently provided by North Carolina law.
- (7) The Swain County Board of Commissioners has by resolution announced its desire and intention that the proceeds of any monetary

settlement with the United States be managed for the long-term prosperity of the people of Swain County.

- (8) The Swain County Board of Commissioners has by resolution announced its desire and intention that the proceeds of a monetary settlement with the United States Department of Interior be preserved and insulated from improvident expenditure.

SECTION 2. Fund Managed by State Treasurer. – G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(19) The Swain County Settlement Trust Fund."

SECTION 3. Fund Provisions. – Article 6 of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-69.6. Swain County Settlement Trust Fund.

(a) The Swain County Settlement Trust Fund is established as a special fund in the Office of the State Treasurer under the management of the Treasurer. The Fund shall consist of the proceeds of any payments made by the United States in settlement of the 1943 agreement between Swain County and the United States Department of Interior, such other contributions as Swain County or other entities may choose to make to the Fund, and the interest and other investment income earned by the Fund. Contributions to the Fund are irrevocable. Assets in the Fund may be disbursed only to Swain County.

(b) On such schedule as the State Treasurer may determine, in consultation with the Board of Commissioners of Swain County, the State Treasurer shall disburse to Swain County amounts requested by the Swain County Board of Commissioners pursuant to a majority vote of that body, provided that disbursements to Swain County under this subsection in any fiscal year shall not exceed the total interest and investment income earned by the Fund in that fiscal year. At the start of each fiscal year, the State Treasurer shall issue a nonbinding opinion and recommendation to the Swain County Board of Commissioners suggesting an appropriate amount of interest and investment income to be reinvested in the Fund to ensure that the principal investment grows to keep pace with inflation.

(c) No portion of the principal balance of the Fund may be disbursed to Swain County absent a request by the Swain County Board of Commissioners accompanied by a certification by the Swain County Board of Elections that two-thirds of the registered voters of Swain County voted in favor of the disbursement and subsequent expenditure of the amount requested in a referendum conducted under subsection (f) of this section.

(d) Funds disbursed to Swain County under subsections (b) or (c) of this section shall be managed by the county in accordance with the requirements of the Local Government Budget and Fiscal Control Act as amended from time to time.

(e) No part of the principal of the Swain County Settlement Trust Fund or of any interest or other income earned on that principal may be paid to or received by any agent or attorney on account of services rendered in connection with negotiating the settlement agreement between Swain County and the United States Department of Interior or obtaining the monetary settlement from the United States.

(f) The Board of Commissioners of Swain County may direct the Swain County Board of Elections to conduct an advisory referendum on the question of whether any portion of the principal of the Fund should be disbursed to and expended by the county for a particular purpose. The election shall be held on a date jointly agreed upon by the two boards, which may be the same day as any other referendum or election in the county, but may not otherwise be during the period beginning 30 days before and ending 30 days after the day of any other referendum or election to be conducted by the

board of elections and already validly called or scheduled by law. The election shall be held in accordance with the procedures of G.S. 163-287. The question to be presented on the ballot shall disclose the specific purpose proposed for expenditure of the principal investment of the Trust Fund and the amount proposed for expenditure.

(g) The Swain County Settlement Trust Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(h) The Swain County Settlement Trust Fund and the income therefrom shall not take the place of or be counted against any other State appropriations or program providing funds or disbursements to Swain 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 June, 2008.

Became law upon approval of the Governor at 2:08 p.m. on the 25th day of June, 2008.

Session Law 2008-14

S.B. 1662

AN ACT TO DISAPPROVE A RULE ADOPTED BY THE NORTH CAROLINA BOARD OF NURSING AND APPROVED BY THE RULES REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 21 NCAC 36 .0318 (Faculty), as adopted by the North Carolina Board of Nursing on May 18, 2007, and approved by the Rules Review Commission on June 28, 2007, is disapproved.

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

In the General Assembly read three times and ratified this the 19th day of June, 2008.

Became law upon approval of the Governor at 2:11 p.m. on the 25th day of June, 2008.

Session Law 2008-15

H.B. 946

AN ACT TO MAKE AN OFFENSE OF VANDALISM THAT RESULTS IN MORE THAN FIVE THOUSAND DOLLARS IN DAMAGES A CLASS I FELONY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-144 reads as rewritten:

"§ 14-144. **Injuring houses, churches, fences and walls.**

If any person shall, by any other means than burning or attempting to burn, unlawfully and willfully demolish, destroy, deface, injure or damage any of the houses or other buildings mentioned in this Chapter in the Article entitled Arson and Other Burnings; or shall by any other means than burning or attempting to burn unlawfully and willfully demolish, pull down, destroy, deface, damage or injure any church, uninhabited house, outhouse or other house or building not mentioned in such article; or shall unlawfully and willfully burn, destroy, pull down, injure or remove any fence, wall or other enclosure, or any part thereof, surrounding or about any yard, garden, cultivated field or pasture, or about any church or graveyard, or about any factory or other house in

which machinery is used, every person so offending shall be ~~guilty of a Class 2 misdemeanor, punished as follows:~~

- (1) If the damage is five thousand dollars (\$5,000) or less, the person is guilty of a Class 2 misdemeanor.
- (2) If the damage is more than five thousand dollars (\$5,000), the person is guilty of a Class I felony."

SECTION 2. This act becomes effective December 1, 2008, 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, 2008.

Became law upon approval of the Governor at 2:11 p.m. on the 25th day of June, 2008.

Session Law 2008-16

S.B. 1748

AN ACT TO AUTHORIZE THE TOWN OF CHAPEL HILL TO LEVY AN ADDITIONAL MOTOR VEHICLE REGISTRATION TAX FOR PUBLIC TRANSPORTATION PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 392 of the Session Laws of 1991, as amended by Section 4.1 of Chapter 339 of the 1995 Session Laws, which authorized an additional annual motor vehicle registration tax for the Town of Chapel Hill for ten dollars (\$10.00) per year, is repealed upon the levy of an additional tax by the Town of Chapel Hill under Section 2 of this act.

SECTION 2.(a) This act authorizes an additional ten dollars (\$10.00) per year beyond the 1995 authorization, bringing Chapel Hill to the thirty dollar (\$30.00) allowed maximum under G.S. 20-97(c), including the five dollars (\$5.00) per year tax authorized by G.S. 20-97(c).

SECTION 2.(b) G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars (\$5.00)~~ twenty-five dollars (\$25.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for any lawful purpose. Any levy under this subsection in excess of fifteen dollars (\$15.00) per year may be expended only for public transportation purposes."

SECTION 3. Section 2 of this act applies to the Town of Chapel Hill only.

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

In the General Assembly read three times and ratified this the 25th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-17

S.B. 1843

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE TOWN OF HILLSBOROUGH.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Hillsborough:

Tract 1:

BEGINNING at a point on the proposed future Old NC 86 right-of-way, said point being the POINT OF BEGINNING; thence North 68° 53' 25" East, a distance of 631.64 feet to a point; thence along the arc of a curve to the right having a radius of 530.00 feet an arc distance of 320.16 feet and a chord of 315.74 feet bearing North 86° 13' 12" East to a point; thence South 76° 27' 01" East, a distance of 114.54 feet to a point; thence along the arc of a curve to the left having a radius of 970.00 feet an arc distance of 468.62 feet and a chord of 464.07 feet bearing North 89° 42' 35" East to a point; thence South 33° 33' 55" East, a distance of 63.40 feet to a point; thence along the arc of a non-tangent curve to the right, which has a radius of 1,030.00 feet an arc distance of 518.70 feet and a chord of 513.24 feet bearing South 89° 07' 23" West to a point; thence North 76° 27' 01" West, a distance of 114.54 feet to a point; thence along the arc of a curve to the left having a radius of 470.00 feet an arc distance of 284.31 feet and a chord of 280.00 feet bearing South 86° 13' 12" West to a point; thence South 68° 53' 25" West, a distance of 23.16 feet to a point; thence along the arc of a non-tangent curve to the left, which has a radius of 400.00 feet an arc distance of 239.11 feet and a chord of 235.57 feet bearing South 82° 16' 04" West to a point; thence South 65° 08' 33" West, a distance of 335.61 feet to a point; thence along the arc of a curve to the right having a radius of 45.00 feet an arc distance of 55.69 feet and a chord of 52.20 feet bearing North 79° 24' 21" West to the point of BEGINNING, containing 67,157 square feet or 1.54 acres, more or less.

Tract 2:

BEGINNING at an existing iron pipe on the western right-of-way of NC Highway 86 and also being on the eastern line of that tract of land owned by Crabtree Glenn, LLC (Plat Book 97, Page 35); thence South 09° 48' 03" East, a distance of 71.63 feet to an iron pipe set; thence South 82° 07' 38" West, a distance of 71.63 feet to an iron pipe set; thence South 82° 07' 38" West, a distance of 103.69 feet to an iron pipe set; thence North 76° 56' 02" West, a distance of 139.44 feet to an iron pipe set; thence South 79° 13' 41" West, a distance of 157.68 feet to an iron pipe set; thence North 01° 56' 00" East, a distance of 59.27 feet to an existing iron pipe; thence North 86° 27' 16" East, a distance of 379.99 feet to the point of BEGINNING containing 22,896 square feet or 0.53 acres, more or less.

Tract 3:

BEGINNING at an existing iron pipe at the northeast corner of that tract of land owned by Lillian Holt Heirs (Plat Book 1, Page 3); thence North 01° 56' 00" East, a distance of 19.41 feet to an iron pipe set; thence North 84° 03' 29" East, a distance of 178.50 feet to an iron pipe set; thence South 88° 09' 27" East, a distance of 208.84 feet to an iron pipe set; thence South 40° 45' 50" East, a distance of 24.29 feet to an iron pipe set; thence South 88° 11' 07" West, a distance of 402.99 feet to the point of BEGINNING containing 10,073 square feet or 0.23 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 25th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-18**H.B. 2121**

AN ACT TO PROHIBIT THE DISCHARGE OF A FIREARM FROM, ON, OR ACROSS THE RIGHT-OF-WAY OF AN IMPROVED STATE-MAINTAINED ROAD OR HIGHWAY IN JACKSON COUNTY, WITH ONE EXCEPTION.

The General Assembly of North Carolina enacts:

SECTION 1. Except as otherwise provided in this act, it is unlawful to 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 an improved State-maintained road, street, or highway.

SECTION 2. This act shall not apply to an owner or lessee of land adjoining an improved State-maintained road or highway.

SECTION 3. A first conviction for violation of this act is punishable as a Class 3 misdemeanor. A second or subsequent conviction for violation of this act is punishable as a Class 2 misdemeanor.

SECTION 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

SECTION 5. This act applies only to Jackson County.

SECTION 6. This act becomes effective October 1, 2008, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 26th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-19**H.B. 2122**

AN ACT TO PROHIBIT THE SHINING OF LIGHTS IN DEER AREAS IN JACKSON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to shine a light intentionally upon a deer or to sweep a light in search of deer between the hours of one-half hour after sunset and one-half hour before sunrise.

SECTION 2. Section 1 of this act shall not be construed to prevent:

- (1) The lawful hunting of raccoon or opossum during open season with artificial lights designed or commonly used in taking raccoon and opossum at night;
- (2) The necessary shining of lights by landholders on their own lands;
- (3) The necessary shining of lights by hunters in search of lost hunting dogs;
- (4) The shining of lights necessary to normal travel by motor vehicles on roads or highways; or
- (5) The use of lights by campers and others who are legitimately in these areas for other reasons and who are not attempting to attract or to immobilize deer by the use of lights.

SECTION 3. Violation of this act is a Class 3 misdemeanor. A second or subsequent conviction occurring within one year of a prior conviction is a Class 2 misdemeanor.

SECTION 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

SECTION 5. This act applies only to Jackson County.

SECTION 6. This act becomes effective October 1, 2008.

In the General Assembly read three times and ratified this the 26th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-20

H.B. 2762

AN ACT TO AUTHORIZE THE CLERK OF SUPERIOR COURT FOR RANDOLPH COUNTY TO ACCEPT PAYMENT OF THE FEE CHARGED BY THE COUNTY SHERIFF FOR OFFENDERS ORDERED TO PARTICIPATE IN PRETRIAL ELECTRONIC MONITORING.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, the clerk of superior court may accept payment of the fee charged by the county sheriff for offenders ordered to participate in pretrial electronic monitoring, for the purpose of remitting payment to the county to support the operation of the pretrial electronic monitoring program.

SECTION 2. This act applies only to Randolph County.

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

In the General Assembly read three times and ratified this the 26th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-21

H.B. 2769

AN ACT TO ANNEX A DESCRIBED AREA TO THE SATELLITE CORPORATE LIMITS OF THE CITY OF ASHEBORO.

The General Assembly of North Carolina enacts:

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

ANNEXATION AREA 1
(Tot Hill Farm Area)

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at an existing iron rod set on the northwestern margin of the 60-foot right-of-way for Tot Hill Farm Road (North Carolina Secondary Road 1163) and located by means of the North Carolina Coordinate System at the coordinates of North 688,927.604 feet and East 1,732,125.633 feet (NAD 83); thence from the said beginning point South 59 degrees 47 minutes 38 seconds East 60.00 feet across the right-of-way for Tot Hill Farm Road to an existing iron rod; thence South 30 degrees 31 minutes 25 seconds West 328.59 feet along the southeastern margin of Tot Hill Farm Road to an existing iron rod; thence in a southwesterly direction along an arc having a radius of 2,030.13 feet and an arc distance of 1,171.79 feet (Chord Bearing and Distance = South 47 degrees 15 minutes 35 seconds West 1,155.59 feet, Delta Angle = 33 degrees 04

minutes 16 seconds, Tangent = 602.72 feet) to an existing iron rod; thence continuing in a southwesterly direction along an arc having a radius of 2,030.13 feet and an arc distance of 410.15 feet (Chord Bearing and Distance = South 69 degrees 34 minutes 57 seconds West 409.45 feet, Delta Angle = 11 degrees 34 minutes 32 seconds, Tangent = 205.78 feet) to an existing iron rod; thence South 14 degrees 55 minutes 09 seconds East 44.59 feet to an existing iron rod; thence North 73 degrees 22 minutes 10 seconds East 386.88 feet to an existing iron rod; thence South 14 degrees 55 minutes 53 seconds East 57.59 feet to an existing iron rod; thence South 65 degrees 24 minutes 54 seconds East 117.61 feet to an existing iron rod; thence South 18 degrees 43 minutes 26 seconds West 214.02 feet to an existing iron rod; thence South 73 degrees 22 minutes 10 seconds West 400.24 feet to an existing iron rod; thence North 00 degrees 57 minutes 57 seconds West 141.77 feet to an existing iron rod; thence in a northwesterly direction along an arc having a radius of 175.00 feet and an arc distance of 187.91 feet (Chord Bearing and Distance = North 60 degrees 12 minutes 19 seconds West 179.01 feet, Delta Angle = 61 degrees 31 minutes 17 seconds, Tangent = 104.16 feet) to an existing iron rod; thence continuing in a northwesterly direction along an arc having a radius of 25.00 feet and an arc distance of 31.41 feet (Chord Bearing and Distance = North 65 degrees 26 minutes 18 seconds West 29.38 feet, Delta Angle = 71 degrees 59 minutes 14 seconds, Tangent = 18.16 feet) to an existing iron rod; thence along the southern margin of the 50-foot right-of-way for Tot Hill Trail (a private road) the following courses and distances: South 79 degrees 40 minutes 02 seconds West 83.62 feet to an existing iron rod; thence in a southwesterly direction along an arc having a radius of 25.00 feet and an arc distance of 30.71 feet (Chord Bearing and Distance = South 44 degrees 28 minutes 57 seconds West 28.82 feet, Delta Angle = 70 degrees 23 minutes 29 seconds, Tangent = 17.63 feet) to an existing iron rod; thence along the eastern margin of the right-of-way for Tot Hill Trail the following courses and distances: South 09 degrees 17 minutes 13 seconds West 211.61 feet to an existing iron rod; thence South 04 degrees 23 minutes 06 seconds West 75.38 feet to an existing iron rod; thence South 49 degrees 18 minutes 39 seconds East 316.18 feet to an existing iron rod; thence South 37 degrees 25 minutes 29 seconds East 207.88 feet to an existing iron rod; thence South 65 degrees 52 minutes 39 seconds East 271.62 feet to an existing iron rod; thence South 06 degrees 15 minutes 38 seconds West 59.61 feet to an existing iron rod; thence South 18 degrees 39 minutes 08 seconds West 443.10 feet to an existing iron rod; thence South 89 degrees 42 minutes 05 seconds West 786.80 feet to an existing iron rod; thence North 08 degrees 20 minutes 34 seconds West 228.23 feet to an existing iron rod; thence South 89 degrees 44 minutes 07 seconds West 377.88 feet to an existing iron rod; thence South 89 degrees 36 minutes 53 seconds West 695.28 feet to an existing iron rod; thence North 63 degrees 27 minutes 41 seconds East 142.95 feet to an existing iron rod; thence North 53 degrees 21 minutes 12 seconds East 198.93 feet to an existing iron rod; thence North 68 degrees 24 minutes 26 seconds East 191.30 feet to an existing iron rod; thence North 70 degrees 21 minutes 53 seconds East 92.24 feet to an existing iron rod; thence North 49 degrees 44 minutes 15 seconds East 195.17 feet to an existing iron rod; thence North 85 degrees 49 minutes 31 seconds East 160.33 feet to an existing iron rod; thence North 78 degrees 30 minutes 34 seconds East 98.59 feet to an existing iron rod; thence North 89 degrees 03 minutes 24 seconds East 159.23 feet to an existing iron rod; thence North 74 degrees 48 minutes 00 seconds East 176.75 feet to an existing iron rod; thence South 15 degrees 05 minutes 24 seconds East 80.69 feet to an existing iron rod; thence along the western margin of the right-of-way for Tot Hill Trail the following courses and distances: North 23 degrees 09 minutes 27 seconds East

113.82 feet to an existing iron rod; thence continuing in a northeasterly direction along an arc having a radius of 150.00 feet and an arc distance of 50.48 feet (Chord Bearing and Distance = North 13 degrees 31 minutes 02 seconds East 50.24 feet, Delta Angle = 19 degrees 16 minutes 48 seconds, Tangent = 25.48 feet) to an existing iron rod; thence North 03 degrees 52 minutes 38 seconds East 245.06 feet to an existing iron rod; thence North 08 degrees 35 minutes 14 seconds East 72.96 feet to an existing iron rod; thence North 88 degrees 55 minutes 38 seconds West 73.75 feet to an existing iron rod; thence South 23 degrees 46 minutes 13 seconds West 21.29 feet to an existing iron rod; thence North 60 degrees 37 minutes 51 seconds West 78.68 feet to an existing iron rod; thence South 28 degrees 10 minutes 51 seconds West 101.92 feet to an existing iron rod; thence South 89 degrees 40 minutes 03 seconds West 104.91 feet to an existing iron rod; thence North 00 degrees 20 minutes 22 seconds East 46.10 feet to an existing iron rod; thence North 27 degrees 08 minutes 00 seconds West 31.74 feet to an existing iron rod; thence North 04 degrees 42 minutes 37 seconds East 47.75 feet to an existing iron rod; thence North 40 degrees 05 minutes 58 seconds East 31.42 feet to an existing iron rod; thence South 88 degrees 34 minutes 48 seconds East 112.99 feet to an existing iron rod; thence North 06 degrees 27 minutes 04 seconds East 88.90 feet to an existing iron rod; thence North 02 degrees 54 minutes 58 seconds East 73.30 feet to an existing iron rod set in the southern margin of the right-of-way for Tot Hill Farm Road; thence along the southern margin of the right-of-way for the Tot Hill Farm Road the following course and distance: South 84 degrees 28 minutes 15 seconds West 606.68 feet to an existing iron rod; thence following the southern margin of the right-of-way for Tot Hill Farm Road in a southwesterly direction along an arc having a radius of 525.33 feet and an arc distance of 39.05 feet (Chord Bearing and Distance = South 86 degrees 00 minutes 14 seconds West 39.04 feet, Delta Angle = 04 degrees 15 minutes 31 seconds, Tangent = 19.53 feet) to an existing iron rod; thence South 44 degrees 21 minutes 42 seconds West 257.88 feet to an existing iron rod; thence South 36 degrees 56 minutes 43 seconds West 166.18 feet to an existing iron rod; thence South 52 degrees 36 minutes 21 seconds West 204.08 feet to an existing iron rod; thence South 31 degrees 07 minutes 51 seconds West 251.15 feet to an existing iron rod; thence South 31 degrees 42 minutes 35 seconds West 170.31 feet to an existing iron rod; thence South 29 degrees 07 minutes 45 seconds West 49.10 feet to an existing iron rod; thence South 29 degrees 37 minutes 06 seconds West 269.87 feet to an existing iron rod; thence South 59 degrees 11 minutes 21 seconds West 451.72 feet to an existing iron rod; thence South 38 degrees 35 minutes 22 seconds West 164.24 feet to an existing iron rod; thence South 41 degrees 59 minutes 18 seconds West 160.23 feet to an existing iron rod; thence South 27 degrees 15 minutes 27 seconds West 223.80 feet to an existing iron rod; thence South 43 degrees 21 minutes 28 seconds West 258.75 feet to an existing iron rod; thence South 68 degrees 42 minutes 28 seconds West 352.52 feet to an existing iron rod; thence South 87 degrees 57 minutes 20 seconds West 197.11 feet to an existing iron rod; thence North 01 degree 26 minutes 23 seconds East 84.91 feet to an existing iron rod; thence North 01 degree 07 minutes 14 seconds West 366.03 feet to an existing iron rod; thence North 52 degrees 04 minutes 19 seconds East 368.98 feet to an existing iron rod; thence North 20 degrees 46 minutes 16 seconds East 207.72 feet to an existing iron rod; thence North 28 degrees 21 minutes 10 seconds East 283.42 feet to an existing iron rod; thence North 21 degrees 20 minutes 34 seconds West 372.51 feet to an existing iron rod; thence North 05 degrees 12 minutes 46 seconds West 215.96 feet to an existing iron rod; thence North 06 degrees 26 minutes 33 seconds East 152.90 feet to an existing iron rod; thence South 83 degrees 33 minutes 34 seconds East 70.04

feet to an existing iron rod; thence South 34 degrees 10 minutes 42 seconds East 164.79 feet to an existing iron rod; thence South 33 degrees 31 minutes 11 seconds East 107.97 feet to an existing iron rod; thence South 39 degrees 27 minutes 18 seconds East 61.87 feet to an existing iron rod; thence South 25 degrees 18 minutes 03 seconds West 71.31 feet to an existing iron rod; thence South 35 degrees 42 minutes 01 second East 64.16 feet to an existing iron rod; thence South 30 degrees 09 minutes 02 seconds West 200.21 feet to an existing iron rod; thence South 56 degrees 55 minutes 45 seconds East 94.96 feet to an existing iron rod; thence North 45 degrees 48 minutes 00 minutes East 541.74 feet to an existing iron rod; thence North 33 degrees 06 minutes 29 seconds East 272.49 feet to an existing iron rod; thence North 66 degrees 55 minutes 09 seconds East 154.30 feet to an existing iron rod; thence North 45 degrees 33 minutes 09 seconds East 177.74 feet to an existing iron rod; thence North 50 degrees 31 minutes 41 seconds East 126.84 feet to an existing iron rod; thence North 57 degrees 28 minutes 57 seconds East 346.70 feet to an existing iron rod set in the southwestern margin of the right-of-way for Tot Hill Farm Road; thence North 44 degrees 06 minutes 49 seconds West 227.64 feet along the southwestern margin of the right-of-way for Tot Hill Farm Road to an existing iron rod; thence South 81 degrees 26 minutes 46 seconds West 264.71 feet to an existing iron rod; thence South 55 degrees 27 minutes 01 second West 540.57 feet to an existing iron rod; thence South 50 degrees 29 minutes 42 seconds West 96.43 feet to an existing iron rod; thence North 40 degrees 38 minutes 59 seconds West 144.00 feet to an existing iron rod; thence North 01 degrees 48 minutes 05 seconds East 85.75 feet to an existing iron rod; thence North 25 degrees 39 minutes 32 seconds West 93.76 feet to an existing iron rod; thence North 04 degrees 40 minutes 14 seconds West 622.82 feet to an existing iron rod; thence North 88 degrees 00 minutes 36 seconds West 117.07 feet to an existing iron rod; thence North 38 degrees 49 minutes 11 seconds West 80.36 feet to an existing iron rod; thence North 17 degrees 24 minutes 01 second East 147.05 feet to an existing iron rod; thence North 15 degrees 45 minutes 34 seconds West 135.00 feet to an existing iron rod; thence North 74 degrees 54 minutes 39 seconds East 165.69 feet to an existing iron rod; thence South 83 degrees 52 minutes 28 seconds East 176.74 feet to an existing iron pipe; thence North 06 degrees 30 minutes 25 seconds East 144.00 feet to an existing iron rod; thence South 72 degrees 52 minutes 51 seconds East 172.97 feet to an existing iron rod; thence North 88 degrees 43 minutes 32 seconds East 104.37 feet to an existing iron rod; thence North 35 degrees 09 minutes 33 seconds East 86.94 feet to an existing iron rod; thence North 55 degrees 22 minutes 01 second East 80.76 feet to an existing iron rod; thence North 42 degrees 38 minutes 14 seconds East 65.19 feet across the right-of-way for Tot Hill Farm Road to an existing iron rod set in the eastern margin of the right-of-way for Tot Hill Farm Road; thence along the eastern margin of the right-of-way for Tot Hill Farm Road the following course and distance: South 32 degrees 58 minutes 02 seconds East 141.54 feet to an existing iron rod; thence continuing to follow the eastern margin of the right-of-way for Tot Hill Farm Road in a southeasterly direction along an arc having a radius of 355.35 feet and an arc distance of 222.56 feet (Chord Bearing and Distance = South 21 degrees 08 minutes 36 seconds East 218.94 feet, Delta Angle = 35 degrees 53 minutes 04 seconds, Tangent = 115.06 feet) to an existing iron rod; thence South 03 degrees 11 minutes 58 seconds East 402.73 feet along the eastern margin of the right-of-way for Tot Hill Farm Road to an existing iron rod; thence South 77 degrees 35 minutes 29 seconds East 337.65 feet to an existing iron rod; thence North 28 degrees 51 minutes 47 seconds East 137.77 feet to an existing iron rod; thence North 45 degrees 04 minutes 51 seconds East 138.78 feet to an existing iron rod; thence North 12 degrees 12 minutes 36 seconds East

196.64 feet to an existing iron rod; thence North 08 degrees 44 minutes 49 seconds West 270.44 feet to an existing iron rod; thence North 87 degrees 34 minutes 45 seconds East 33.04 feet to an existing iron rod; thence South 82 degrees 44 minutes 57 seconds East 30.37 feet to an existing iron rod; thence North 29 degrees 12 minutes 58 seconds East 51.86 feet to an existing iron rod; thence North 54 degrees 38 minutes 33 seconds East 22.30 feet to an existing iron rod; thence South 86 degrees 24 minutes 06 seconds East 40.70 feet to an existing iron rod; thence South 15 degrees 34 minutes 20 seconds East 24.48 feet to an existing iron rod; thence South 34 degrees 07 minutes 31 seconds East 17.06 feet to an existing iron rod; thence South 87 degrees 24 minutes 18 seconds East 43.22 feet to an existing iron rod; thence South 76 degrees 41 minutes 01 second East 33.73 feet to an existing iron rod; thence South 46 degrees 05 minutes 28 seconds East 74.97 feet to an existing iron rod; thence South 58 degrees 11 minutes 15 seconds East 53.08 feet to an existing iron rod; thence South 74 degrees 18 minutes 40 seconds East 46.17 feet to an existing iron rod; thence South 51 degrees 39 minutes 27 seconds East 58.56 feet to an existing iron rod; thence South 22 degrees 28 minutes 06 seconds East 45.35 feet to an existing iron rod; thence South 42 degrees 29 minutes 19 seconds East 28.43 feet to an existing iron rod; thence South 85 degrees 04 minutes 05 seconds East 22.92 feet to an existing iron rod; thence North 65 degrees 46 minutes 21 seconds East 20.34 feet to an existing iron rod; thence South 36 degrees 31 minutes 30 seconds East 85.43 feet to an existing iron rod; thence South 13 degrees 31 minutes 34 seconds East 56.36 feet to an existing iron rod; thence South 06 degrees 55 minutes 16 seconds West 82.60 feet to an existing iron rod; thence South 33 degrees 07 minutes 06 seconds West 78.31 feet to an existing iron rod; thence South 49 degrees 23 minutes 04 seconds West 72.01 feet to an existing iron rod; thence South 33 degrees 01 minute 34 seconds East 194.41 feet to an existing iron rod; thence South 02 degrees 45 minutes 20 seconds East 129.84 feet to an existing iron rod; thence South 24 degrees 17 minutes 37 seconds West 87.53 feet to an existing iron rod; thence South 42 degrees 08 minutes 18 seconds East 24.69 feet to an existing iron rod; thence South 20 degrees 35 minutes 49 seconds West 325.23 feet to an existing iron rod; thence South 13 degrees 26 minutes 33 seconds West 60.76 feet to an existing iron rod; thence South 29 degrees 24 minutes 57 seconds West 23.97 feet to an existing iron rod set in the northern margin of the right-of-way for Tot Hill Farm Road; thence continuing along the northern margin of the right-of-way for Tot Hill Farm Road the following courses and distances: North 84 degrees 28 minutes 15 seconds East 362.20 feet to an existing iron rod; thence North 78 degrees 33 minutes 58 seconds East 70.61 feet to an existing iron rod; thence in a northwesterly direction along the western margin of the right-of-way for High Meadow Drive (a private road) following an arc having a radius of 146.19 feet and an arc distance of 45.69 feet (Chord Bearing and Distance = North 14 degrees 56 minutes 51 seconds West 45.50 feet, Delta Angle = 17 degrees 54 minutes 19 seconds, Tangent = 23.03 feet) to an existing iron rod; thence North 23 degrees 54 minutes 01 second West 20.56 feet to an existing iron rod; thence in a northeasterly direction along an arc having a radius of 211.56 feet and an arc distance of 241.85 feet (Chord Bearing and Distance = North 08 degrees 50 minutes 59 seconds East 228.90 feet, Delta Angle = 65 degrees 30 minutes 00 seconds, Tangent = 136.08 feet) to an existing iron rod; thence North 41 degrees 35 minutes 59 seconds East 15.24 feet to an existing iron rod; thence North 63 degrees 09 minutes 42 seconds West 93.23 feet to an existing iron rod; thence North 10 degrees 53 minutes 50 seconds East 84.53 feet to an existing iron rod; thence North 04 degrees 12 minutes 58 seconds West 93.02 feet to an existing iron rod; thence North 01 degree 21 minutes 29 seconds East 428.99 feet to an existing iron rod; thence North 40

degrees 02 minutes 08 seconds East 252.59 feet to an existing iron rod; thence North 89 degrees 09 minutes 53 seconds East 97.08 feet to an existing iron rod; thence South 46 degrees 53 minutes 38 seconds East 44.42 feet to an existing iron rod; thence South 63 degrees 23 minutes 33 seconds East 74.95 feet to an existing iron rod; thence South 02 degrees 43 minutes 22 seconds East 49.99 feet to an existing iron rod; thence South 88 degrees 39 minutes 21 seconds East 61.27 feet to an existing iron rod; thence North 50 degrees 50 minutes 12 seconds East 24.97 feet to an existing iron rod; thence South 28 degrees 23 minutes 39 seconds East 252.11 feet to an existing iron rod; thence South 50 degrees 49 minutes 32 seconds West 100.01 feet to an existing iron rod; thence South 04 degrees 36 minutes 02 seconds East 182.72 feet to an existing iron rod; thence South 53 degrees 09 minutes 17 seconds West 47.40 feet to an existing iron rod; thence South 28 degrees 56 minutes 52 seconds East 60.00 feet to an existing iron rod; thence South 60 degrees 49 minutes 24 seconds West 184.00 feet to an existing iron rod; thence South 52 degrees 35 minutes 52 seconds West 199.60 feet to an existing iron rod; thence North 81 degrees 07 minutes 35 seconds West 49.05 feet to an existing iron rod; thence South 41 degrees 35 minutes 59 seconds West 47.11 feet to an existing iron rod; thence in a southwesterly direction along the eastern margin of the right-of-way for High Meadow Drive following an arc having a radius of 161.56 feet and an arc distance of 184.70 feet (Chord Bearing and Distance = South 08 degrees 50 minutes 59 seconds West 174.80 feet, Delta Angle = 65 degrees 30 minutes 00 seconds, Tangent = 103.92 feet) to an existing iron rod; thence continuing along the eastern margin of the right-of-way for High Meadow Drive the following courses and distances: South 23 degrees 54 minutes 01 second East 20.56 feet to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 196.19 feet and an arc distance of 64.46 feet (Chord Bearing and Distance = South 14 degrees 29 minutes 14 seconds East 64.17 feet, Delta Angle = 18 degrees 49 minutes 34 seconds, Tangent = 32.53 feet) to an existing iron rod; thence South 84 degrees 06 minutes 27 seconds East 70.95 feet to an existing iron rod; thence along the northern margin of the right-of-way for Tot Hill Farm Road the following courses and distances: North 87 degrees 47 minutes 26 seconds East 24.04 feet to an existing iron rod; thence in a northeasterly direction along an arc having a radius of 1,970.13 feet and an arc distance of 1,904.01 feet (Chord Bearing and Distance = North 58 degrees 24 minutes 38 seconds East 1,830.77 feet, Delta Angle = 55 degrees 22 minutes 22 seconds, Tangent = 1,033.74 feet) to an existing iron rod; thence North 30 degrees 45 minutes 37 seconds East 187.58 feet to an existing iron rod; thence in a northwesterly direction along an arc having a radius of 30.00 feet and an arc distance of 47.54 feet (Chord Bearing and Distance = North 14 degrees 40 minutes 17 seconds West 42.72 feet, Delta Angle = 90 degrees 47 minutes 41 seconds, Tangent = 30.42 feet) to an existing iron rod; thence along the western margin of the 50-foot right-of-way for Stone Bridge Road (a private road) the following courses and distances: North 60 degrees 04 minutes 07 seconds West 89.42 feet to an existing iron rod; thence North 29 degrees 55 minutes 53 seconds East 15.00 feet to an existing iron rod; thence North 60 degrees 04 minutes 07 seconds West 12.53 feet to an existing iron rod; thence in a northwesterly direction along an arc having a radius of 256.03 feet and an arc distance of 338.92 feet (Chord Bearing and Distance = North 22 degrees 08 minutes 44 seconds West 314.71 feet, Delta Angle = 75 degrees 50 minutes 43 seconds, Tangent = 199.48 feet) to an existing iron rod; thence North 15 degrees 46 minutes 38 seconds East 47.33 feet to an existing iron rod; thence in a northwesterly direction along an arc having a radius of 326.53 feet and an arc distance of 181.00 feet (Chord Bearing and Distance = North 00 degrees 06 minutes 08 seconds West 178.69

feet, Delta Angle = 31 degrees 45 minutes 35 seconds, Tangent = 92.89 feet) to an existing iron rod; thence North 15 degrees 58 minutes 56 seconds West 14.28 feet to an existing iron rod; thence in a northwesterly direction along an arc having a radius of 842.10 feet and an arc distance of 205.10 feet (Chord Bearing and Distance = North 09 degrees 00 minutes 11 seconds West 204.59 feet, Delta Angle = 13 degrees 57 minutes 17 seconds, Tangent = 103.06 feet) to an existing iron rod; thence North 02 degrees 01 minute 38 seconds West 164.21 feet to an existing iron rod; thence in a northwesterly direction along an arc having a radius of 1,584.04 feet and an arc distance of 116.33 feet (Chord Bearing and Distance = North 04 degrees 07 minutes 52 seconds West 116.30 feet, Delta Angle = 4 degrees 12 minutes 28 seconds, Tangent = 58.19 feet) to an existing iron rod; thence in a northwesterly direction along an arc having a radius of 30.00 feet and an arc distance of 25.64 feet (Chord Bearing and Distance = North 60 degrees 03 minutes 10 seconds West 24.86 feet, Delta Angle = 48 degrees 57 minutes 47 seconds, Tangent = 13.66 feet) to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 1,564.04 feet and an arc distance of 129.54 feet (Chord Bearing and Distance = South 04 degrees 24 minutes 00 seconds East 129.50 feet, Delta Angle = 04 degrees 44 minutes 44 seconds, Tangent = 64.81 feet) to an existing iron rod; thence South 02 degrees 01 minute 38 seconds East 289.09 feet to an existing iron rod; thence South 81 degrees 28 minutes 51 seconds West 62.28 feet to an existing iron rod; thence South 24 degrees 29 minutes 31 seconds West 401.80 feet to an existing iron rod; thence South 31 degrees 08 minutes 23 seconds West 194.73 feet to an existing iron rod; thence South 58 degrees 34 minutes 48 seconds West 383.03 feet to an existing iron rod; thence North 78 degrees 19 minutes 21 seconds West 171.76 feet to an existing iron rod; thence North 36 degrees 13 minutes 30 seconds West 259.79 feet to an existing iron rod; thence North 11 degrees 13 minutes 48 seconds West 440.79 feet to an existing iron rod; thence North 68 degrees 58 minutes 11 seconds East 68.98 feet to an existing iron rod; thence North 18 degrees 09 minutes 33 seconds East 105.94 feet to an existing iron rod; thence North 04 degrees 01 minute 47 seconds East 117.45 feet to an existing iron rod; thence North 74 degrees 13 minutes 29 seconds East 76.54 feet to an existing iron rod; thence North 12 degrees 53 minutes 23 seconds East 76.84 feet to an existing iron rod; thence North 79 degrees 44 minutes 19 seconds East 54.10 feet to an existing iron rod; thence North 16 degrees 42 minutes 19 seconds West 58.85 feet to an existing iron rod; thence North 29 degrees 32 minutes 53 seconds East 56.91 feet to an existing iron rod; thence North 78 degrees 52 minutes 30 seconds East 102.63 feet to an existing iron rod; thence North 46 degrees 41 minutes 44 seconds East 79.40 feet to an existing iron rod; thence South 87 degrees 27 minutes 22 seconds East 47.93 feet to an existing iron rod; thence North 43 degrees 26 minutes 36 seconds East 55.20 feet to an existing iron rod; thence North 77 degrees 05 minutes 02 seconds East 287.93 feet to an existing iron rod; thence North 46 degrees 10 minutes 48 seconds East 114.40 feet to an existing iron rod; thence North 25 degrees 14 minutes 07 seconds East 105.60 feet to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 162.88 feet and an arc distance of 178.46 feet (Chord Bearing and Distance = South 38 degrees 45 minutes 14 seconds East 169.66 feet, Delta Angle = 62 degrees 46 minutes 34 seconds, Tangent = 99.37 feet) to an existing iron rod; thence South 07 degrees 21 minutes 57 seconds East 132.51 feet to an existing iron rod; thence in a northeasterly direction along an arc having a radius of 30.00 feet and an arc distance of 25.97 feet (Chord Bearing and Distance = North 45 degrees 15 minutes 16 seconds East 25.17 feet, Delta Angle = 49 degrees 36 minutes 14 seconds, Tangent = 13.86 feet) to an existing iron rod; thence North 07 degrees 21 minutes 57 seconds West

117.23 feet along the western margin of the right-of-way for Stone Bridge Road to an existing iron rod; thence continuing to follow the margin of the right-of-way for Stone Bridge Road in a northwesterly direction along an arc having a radius of 182.88 feet and an arc distance of 250.25 feet (Chord Bearing and Distance = North 46 degrees 34 minutes 02 seconds West 231.17 feet, Delta Angle = 78 degrees 24 minutes 09 seconds, Tangent = 149.16 feet) to an existing iron rod; thence North 85 degrees 46 minutes 14 seconds West 151.87 feet to an existing iron rod; thence in a northwesterly direction along an arc having a radius of 2,479.48 feet and an arc distance of 157.71 feet (Chord Bearing and Distance = North 87 degrees 35 minutes 34 seconds West 157.68 feet, Delta Angle = 03 degrees 38 minutes 39 seconds, Tangent = 78.88 feet) to an existing iron rod; thence South 89 degrees 43 minutes 26 seconds West 368.25 feet to an existing iron rod; thence South 37 degrees 34 minutes 50 seconds East 193.49 feet to an existing iron rod; thence South 66 degrees 09 minutes 57 seconds West 63.93 feet to an existing iron rod; thence North 52 degrees 28 minutes 25 seconds West 57.76 feet to an existing iron rod; thence South 70 degrees 55 minutes 00 seconds West 98.84 feet to an existing iron rod; thence South 51 degrees 01 minute 55 seconds West 110.03 feet to an existing iron rod; thence South 46 degrees 54 minutes 25 seconds West 559.15 feet to an existing iron rod; thence South 00 degrees 25 minutes 07 seconds West 353.97 feet to an existing iron rod; thence South 57 degrees 31 minutes 15 seconds East 64.90 feet to an existing iron rod; thence South 00 degrees 25 minutes 07 seconds West 98.01 feet to an existing iron rod; thence South 72 degrees 25 minutes 32 seconds West 158.48 feet to an existing iron rod; thence North 65 degrees 39 minutes 22 seconds West 108.74 feet to an existing iron rod; thence North 43 degrees 16 minutes 35 seconds West 97.36 feet to an existing iron rod; thence North 19 degrees 39 minutes 41 seconds West 92.98 feet to an existing iron rod; thence North 69 degrees 12 minutes 50 seconds West 82.09 feet to an existing iron rod; thence North 00 degrees 00 minutes 00 seconds East 144.20 feet to an existing iron rod; thence North 06 degrees 58 minutes 59 seconds West 492.37 feet to an existing iron rod set in the southern margin of the 50-foot right-of-way for Stable Brook Road (a private road); thence following the southern margin of the right-of-way for Stable Brook Road in a northwesterly direction along an arc having a radius of 289.00 feet and an arc distance of 64.66 feet (Chord Bearing and Distance = North 84 degrees 03 minutes 24 seconds West 64.53 feet, Delta Angle = 12 degrees 49 minutes 12 seconds, Tangent = 32.47 feet) to an existing iron rod; thence South 17 degrees 01 minute 48 seconds West 520.99 feet to an existing iron rod; thence North 49 degrees 46 minutes 57 seconds West 194.23 feet to an existing iron rod; thence South 53 degrees 00 minutes 11 seconds West 59.30 feet to an existing iron rod; thence South 12 degrees 54 minutes 55 seconds West 294.71 feet to an existing iron rod; thence North 30 degrees 08 minutes 17 seconds West 78.56 feet to an existing iron rod; thence North 89 degrees 43 minutes 46 seconds West 127.78 feet to an existing iron rod; thence North 45 degrees 58 minutes 11 seconds West 151.98 feet to an existing iron rod; thence North 49 degrees 20 minutes 52 seconds West 90.69 feet to an existing iron rod; thence North 77 degrees 21 minutes 06 seconds West 30.00 feet to an existing iron rod; thence North 27 degrees 48 minutes 35 seconds East 190.26 feet to an existing iron rod; thence North 14 degrees 24 minutes 37 seconds East 359.41 feet to an existing iron rod; thence North 53 degrees 49 minutes 18 seconds West 79.87 feet to an existing iron rod; thence North 36 degrees 10 minutes 42 seconds East 370.02 feet to an existing iron rod; thence North 36 degrees 10 minutes 42 seconds East 1,884.97 feet to an existing iron pipe; thence South 04 degrees 03 minutes 43 seconds West 1,161.16 feet to an existing iron pipe control corner; thence South 03 degrees 44 minutes 40

seconds West 213.84 feet to an existing iron rod; thence South 04 degrees 02 minutes 35 seconds West 205.24 feet to an existing iron pipe control corner; thence North 89 degrees 45 minutes 36 seconds East 363.09 feet to an existing iron rod; thence South 19 degrees 45 minutes 31 seconds East 30.07 feet to an existing iron rod set in the northern margin of the right-of-way for Stone Bridge Road; thence continuing along the northern margin of the right-of-way for Stone Bridge Road in a northeasterly direction along an arc having a radius of 254.81 feet and an arc distance of 86.26 feet (Chord Bearing and Distance = North 79 degrees 23 minutes 51 seconds East 85.85 feet, Delta Angle = 19 degrees 23 minutes 48 seconds, Tangent = 43.55 feet) to an existing iron rod; thence North 89 degrees 43 minutes 26 seconds East 447.98 feet to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 2,529.48 feet and an arc distance of 160.89 feet (Chord Bearing and Distance = South 87 degrees 35 minutes 34 seconds East 160.86 feet, Delta Angle = 03 degrees 38 minutes 39 seconds, Tangent = 80.47 feet) to an existing iron rod; thence South 85 degrees 46 minutes 14 seconds East 151.87 feet to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 232.88 feet and an arc distance of 318.67 feet (Chord Bearing and Distance = South 46 degrees 34 minutes 03 seconds East 294.38 feet, Delta Angle = 78 degrees 24 minutes 12 seconds, Tangent = 189.94 feet) to an existing iron rod; thence South 07 degrees 21 minutes 57 seconds East 166.42 feet to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 1,634.04 feet and an arc distance of 152.22 feet (Chord Bearing and Distance = South 04 degrees 41 minutes 45 seconds East 152.16 feet, Delta Angle = 05 degrees 20 minutes 15 seconds, Tangent = 76.17 feet) to an existing iron rod; thence South 02 degrees 01 minute 38 seconds East 164.21 feet to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 792.10 feet and an arc distance of 192.92 feet (Chord Bearing and Distance = South 09 degrees 00 minutes 10 seconds East 192.44 feet, Delta Angle = 13 degrees 57 minutes 17 seconds, Tangent = 96.94 feet) to an existing iron rod; thence South 15 degrees 58 minutes 56 seconds East 14.28 feet to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 376.53 feet and an arc distance of 208.71 feet (Chord Bearing and Distance = South 00 degrees 06 minutes 11 seconds East 206.05 feet, Delta Angle = 31 degrees 45 minutes 32 seconds, Tangent = 107.11 feet) to an existing iron rod; thence South 15 degrees 46 minutes 38 seconds West 47.33 feet to an existing iron rod; thence in a southeasterly direction along an arc having a radius of 206.03 feet and an arc distance of 272.73 feet (Chord Bearing and Distance = South 22 degrees 08 minutes 35 seconds East 253.25 feet, Delta Angle = 75 degrees 50 minutes 41 seconds, Tangent = 160.52 feet) to an existing iron rod; thence South 60 degrees 04 minutes 07 seconds East 12.53 feet to an existing iron rod; thence North 29 degrees 55 minutes 53 seconds East 15.00 feet to an existing iron rod; thence South 60 degrees 04 minutes 07 seconds East 90.10 feet to an existing iron rod; thence in a northeasterly direction along an arc having a radius of 30.00 feet and an arc distance of 47.18 feet (Chord Bearing and Distance = North 74 degrees 52 minutes 40 seconds East 42.47 feet, Delta Angle = 90 degrees 06 minutes 26 seconds, Tangent = 30.06 feet) to the point and place of the BEGINNING, and containing 196.43 acres of land, more or less, to be annexed.

This description is in accordance with an annexation map of the Tot Hill Farm area prepared for the City of Asheboro by David Ward Surveying. This annexation map was drawn under the supervision of Roland D. Ward, Professional Land Surveyor, with Registration Number L-2728. The said annexation map is dated April 28, 2008, with a revision date of May 12, 2008.

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

ANNEXATION AREA 2
(Tot Hill Farm Area)

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at an existing iron rod set on the common property line between Tot Hill Farm, LLC and the Dassow Property Corp. property described in Deed Book 1516, Page 507 and in Deed Book 1231, Page 1789 in the Randolph County Public Registry, this beginning point is located by means of the North Carolina Coordinate System at the coordinates of North 685,338.941 feet and East 1,728,652.489 feet (NAD 83); thence from the said beginning point along the common property line with the Dassow Property Corp. the following course and distance: South 82 degrees 57 minutes 46 seconds West 684.67 feet to an existing iron rod; thence North 47 degrees 38 minutes 27 seconds East 330.94 feet to an existing iron rod; thence North 79 degrees 21 minutes 43 seconds East 202.92 feet to an existing iron rod; thence South 53 degrees 08 minutes 41 seconds East 294.37 feet to the point and place of the BEGINNING, and containing 2.009 acres of land, more or less, to be annexed.

This description is in accordance with an annexation map of the Tot Hill Farm area prepared for the City of Asheboro by David Ward Surveying. This annexation map was drawn under the supervision of Roland D. Ward, Professional Land Surveyor with Registration Number L-2728. The said annexation map is dated April 29, 2008, with a revision date of May 12, 2008.

SECTION 3. The areas annexed by this act shall be considered as "satellite corporate limits", and shall be subject to the provisions of G.S. 160A-58.3 through G.S. 160A-58.6.

SECTION 4. This act becomes effective June 30, 2008.

In the General Assembly read three times and ratified this the 26th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-22

S.B. 1597

AN ACT TO AUTHORIZE CABARRUS COUNTY; THE CITIES OF CONCORD, DURHAM, KANNAPOLIS, AND LOCUST; AND THE TOWNS OF CARY, HARRISBURG, MIDLAND, MOUNT PLEASANT, AND STANFIELD TO PROVIDE DEVELOPMENT INCENTIVES IN EXCHANGE FOR REDUCTIONS IN ENERGY CONSUMPTION.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 and 2 of S.L. 2007-241 read as rewritten:

"**SECTION 1.** Land-Use Development Incentives. ~~Cities and towns~~ Counties and municipalities, for the purpose of reducing the amount of energy consumption by new development, and thereby promoting the public health, safety, and welfare, may adopt ordinances to grant a density bonus, make adjustments to otherwise applicable development requirements, or provide other incentives to a developer or builder within the county or municipality and its extraterritorial planning jurisdiction if the developer or builder agrees to construct new development or reconstruct existing development in a manner that the county or municipality determines, based on generally recognized

standards established for such purposes, makes a significant contribution to the reduction of energy consumption.

"**SECTION 2.** This act applies only to ~~the Cabarrus County, the~~ Cities of Asheville, Charlotte, Concord, Durham, Kannapolis, Locust, and Wilmington, and to the Towns of Carrboro and Chapel Hill. ~~Carrboro, Cary, Chapel Hill, Harrisburg, Midland, Mount Pleasant, and Stanfield.~~"

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, 2008.

Became law on the date it was ratified.

Session Law 2008-23

S.B. 1636

AN ACT TO AUTHORIZE THE TOWN OF MOREHEAD CITY AND THE CITY OF WILSON TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE TOWN'S PUBLIC NUISANCE ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2005-44, as amended by S.L. 2007-3 and S.L. 2007-254, reads as rewritten:

"**SECTION 2.** This act applies to the County of New Hanover, the ~~City~~ Cities of Wilmington, Wilmington and Wilson, and the Towns of Cornelius, Davidson, and Matthews. ~~Matthews, and Morehead City only.~~"

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, 2008.

Became law on the date it was ratified.

Session Law 2008-24

S.B. 1648

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWNS OF MIDDLESEX AND NASHVILLE.

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, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Green Level, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley,

Maiden, Mayodan, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-25

S.B. 1828

AN ACT AUTHORIZING THE TOWNS OF MARSHVILLE, WADESBORO, AND WINGATE TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE TOWNS' OVERGROWN VEGETATION ORDINANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-200(b) reads as rewritten:

"(b) This section applies to the Towns of Ahoskie, Ayden, Leland, Marshville, Pineville, ~~and Spring Lake~~, Spring Lake, and Wingate, and to the Cities of Durham, Eden, Gastonia, Greensboro, High Point, Lexington, Monroe, Reidsville, Roanoke Rapids, Rockingham, Rocky Mount, Wadesboro, and Winston-Salem only."

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

In the General Assembly read three times and ratified this the 30th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-26

H.B. 2084

AN ACT AMENDING THE EFFECTIVE DATE OF THE ANNEXATION OF CERTAIN PROPERTY BY THE TOWN OF LANDIS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(b) of S.L. 2006-58, as amended by S.L. 2007-139, reads as rewritten:

"**SECTION 1(b)** This section becomes effective ~~September 30, 2008~~ December 31, 2010."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-27

H.B. 2091

AN ACT AMENDING THE CHARTER OF THE TOWN OF KERNERSVILLE TO AUTHORIZE THE TOWN TO CONTRACT WITH ANY COUNTY IN WHICH A PORTION OF THE TOWN IS LOCATED FOR THE COLLECTION OF TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 16 of the Charter of the Town of Kernersville, being Chapter 381 of the 1989 Session Laws, as amended, reads as rewritten:

"Sec. 16. Town Tax Collector.

The Tax Collector shall be appointed by the Town Manager and it shall be the duty of the Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town government, subject to the provisions of this Charter and ordinances enacted thereunder, and he shall diligently comply with and enforce the general laws of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities. The duties of the Tax Collector may be combined with the duties of some other office, or may be contracted ~~for with the County of Forsyth~~ for, in whole or in part, with any county within which a portion of the Town is located as the Board of Aldermen may from time to time decide, in which case the ~~current~~ appropriate county tax collector shall be appointed by the Town Manager as ~~the~~ a Tax Collector for the Town."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-28

H.B. 2449

AN ACT ALLOWING THE TOWN OF MAGGIE VALLEY TO ANNEX BY VOLUNTARY PETITION AREAS THAT ARE MORE THAN THREE MILES FROM THE TOWN'S PRIMARY CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

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

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

- (1) ~~The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.~~
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
- (5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New

Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Green Level, Grimesland, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Mount Pleasant, Oak Island, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

SECTION 2. This act applies to the Town of Maggie Valley only, and applies only to annexations in the area of Haywood County that is bound by the existing Town of Maggie Valley corporate limits to the south, the Great Smoky Mountains National Park to the west, Interstate 40 to the north, and the Maggie Valley-Waynesville Annexation Agreement boundary line to the east.

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

In the General Assembly read three times and ratified this the 30th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-29

H.B. 2455

AN ACT TO PERMIT THE CITY OF OXFORD TO INCREASE ITS MOTOR VEHICLE PRIVILEGE TAX FROM TEN DOLLARS TO TWENTY DOLLARS FOR EACH RESIDENT VEHICLE LOCATED IN THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars (\$5.00)~~ twenty dollars (\$20.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for any lawful purpose."

SECTION 1.(b) This section applies to the City of Oxford only.

SECTION 2. Sec. 2 of Chapter 610 of the 1987 Session Laws reads as rewritten:

"Sec. 2. This act applies to the ~~City of Oxford and the~~ Town of Creedmoor only."

SECTION 3. Section 2 of this act is effective upon the date the City of Oxford acts to levy an additional tax under this act. 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, 2008.

Became law on the date it was ratified.

Session Law 2008-30**H.B. 2585**

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWNS OF GRANITE QUARRY, KENANSVILLE, LILLINGTON, NASHVILLE, RICHLANDS, AND TROUTMAN.

The General Assembly of North Carolina enacts:

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

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

...

- (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, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Granite Quarry, Green Level, Grimesland, Holly Ridge, Holly Springs, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troutman, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

SECTION 2. For the Town of Richlands, G.S. 160-58.1(b)(5) shall not apply in the following described territory: All of Tax Parcel 62-1.4 and that part of Tax Parcel 62-1 that is north of a line starting 500 feet south of Rhodestown Road and running a 50 degree line to the back of Tax Parcel 62-1, all tax parcels as stated by the Onslow County records.

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

In the General Assembly read three times and ratified this the 30th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-31**H.B. 2689**

AN ACT TO EXTEND THE SUNSET ON THE DURHAM CITY ADDITIONAL MUNICIPAL VEHICLE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2003-329, as rewritten by Section 1 of S.L. 2004-103, reads as rewritten:

"**SECTION 4.** Section 1 of this act is effective when it becomes law and expires ~~five years after that date~~ on June 30, 2009. The remainder of this act is effective when it becomes law."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-32

H.B. 2765

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF STATESVILLE AND THE TOWN OF MOORESVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Statesville are reduced by removing the following described territory:

BEGINNING at the Northwestern corner of James McCombs as described in Iredell County Deed Book 574, at page 546, in the line of William Stevenson and runs from the beginning with the line of William Stevenson and continuing with a new line of Willie Belle Corry, North 06 deg. 59 min. 40 sec. East 460.20 feet to the Southwestern corner of a 5.23 acre tract being conveyed to Charles Y. Corry and wife by deed of even date; thence with the line of said 5.23 acre tract, South 83 deg. 30 min. 35 sec. East 906.03 feet to the Southeastern corner of said 5.23 acre tract in the line of the Twin Oaks Golf Course Property; thence with the line of said Golf Course Property, South 06 deg. 52 min. 10 sec. West 547.27 feet to the Northeastern corner of James McCombs; thence with the line of said McCombs North 78 deg. 01 min. 20 sec. West 910.63 feet to the point of BEGINNING, containing 10.48 acres, more or less, according to a survey by R.B. Kestler, Jr., Registered Surveyor, dated December 5, 1967, and being the identical property described as Tract Two in the deed from Willie Belle Corry to Berthaline Corry Danner, dated June 10, 1977, and recorded in Deed Book 608, page 608, Iredell County Registry. For further back title see deed from Berthaline Corry Danner to George Costella Danner dated April 14, 1987, recorded in Book 747, page 377, Iredell County Registry, and deed from Donald L. Corry and wife to George Costella Danner dated October 16, 1987, and recorded in Deed Book 757, page 14, Iredell County Registry.

SECTION 2. The corporate limits of the Town of Mooresville are reduced by removing the following described territory:

BEGINNING at a point in the intersection of the centerline of State Road 1179 and the common line of Julia M. Byers and Duke Power Company; thence with the line of Duke Powers Company's line North 89 degree 39 minutes West 293.76 feet to an old iron, Bobby W. Moore's corner; thence with two of his lines as follows: North 0 degrees 6 minutes west 121.22 feet to a point in said road and North 34 degrees 35 minutes West 40.55 feet to a point in the center of said road; thence with the center of said road three courses as follows: South 52 degrees 50 minutes East 165.0 feet, South 61 degrees 04 minutes East 100.0 feet and South 66 degrees 30 minutes East 19.68 feet to the BEGINNING, containing 0.30 acre, more or less, as shown on a survey prepared by Donald Ray Allen, Registered Surveyor, dated July 7, 1982, and recorded in book 676 page 442 at the Iredell County Register of Deeds, and being a portion of that property as

described in a deed from Julia M. Byers to Bobby W. Moore and wife, Nancy W. Moore and recorded in Book 676, Page 440 of the Iredell County Registry.

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

In the General Assembly read three times and ratified this the 30th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-33

H.B. 2783

AN ACT TO AUTHORIZE CHEROKEE COUNTY TO LEVY AN ADDITIONAL THREE PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 1055 of the 1983 Session Laws reads as rewritten:

"Section 1. ~~Levy of Tax. Occupancy Tax. –~~

(a) ~~Authorization and scope. – The Cherokee 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 and tourism development tax.~~

(b) ~~Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the Cherokee County Board of Commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

"Sec. 2. ~~Occupancy Tax.~~

(a) ~~The county room occupancy and tourism development tax that may be levied under this act shall be a percentage tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now that is subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). 105-164.4(a)(3). During the first year in which a tax levied under this act is in effect, the tax shall be three percent (3%) of the gross receipts derived from the rental of taxable accommodations in the county. Thereafter, the rate of tax shall continue to be three percent (3%) unless the Cherokee County Board of Commissioners, by resolution, adopts a rate of less than three percent (3%). A change in the occupancy tax rate adopted by the board of commissioners becomes effective the first day of the second succeeding calendar month following the date of adoption of the resolution. The Cherokee County Board of Commissioners may not change the occupancy tax rate more than once a year.~~

(b) ~~The occupancy tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations.~~

(b) Authorization of additional tax. – In addition to the tax authorized by subsection (a) of this section, the Cherokee County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this act. Cherokee County may not levy a

tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

"Sec. 3. Administration of Tax. – A tax levied under this act shall be levied, collected, administered, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

~~(a) Any tax levied under this act is due and payable to the county 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 county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.~~

~~(c) 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 the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.~~

~~(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this act or to make a return and 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.~~

~~"Sec. 4. Collection of Tax. Every operator of a business subject to the tax levied pursuant to this act shall collect the tax on and after the effective date of the levy of the tax.~~

~~This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. 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 Cherokee County. The room occupancy tax levied under this act 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 in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~"Sec. 5. Disposition of Taxes Collected. Distribution and use of tax revenue. – Cherokee County shall shall, on a quarterly basis, remit the net proceeds of all revenues received from the room occupancy tax to the Cherokee County Tourism Development Authority. Authority appointed pursuant to this act. The Authority shall use at least two-thirds of the funds remitted to it under this act to promote travel and tourism in Cherokee County and shall use the remainder for tourism-related expenditures. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax. The Authority may expend these funds only to further the development of travel, tourism, and conventions in the county through advertising and promotion.~~

The following definitions apply in this section:

- (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 Tourism Development Authority, 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.

"Sec. 6. ~~Appointment, Duties of Cherokee County Tourism Development Authority.~~

(a) Appointment and membership. – When the Cherokee County Board of Commissioners adopts a resolution levying a room occupancy tax, tax under this act, it shall also adopt a resolution creating a County Tourism Development Authority composed of the director of the Cherokee County Chamber of Commerce and the following four members appointed by the Cherokee County Board of Commissioners:

- (1) ~~an owner of a hotel, motel, or other accommodations subject to the tax levied by this act;~~
- (2) ~~a member of the board of county commissioners;~~
- (3) ~~a town commissioner or the mayor of the Town of Murphy; and~~
- (4) ~~a town alderman or the mayor of the Town of Andrews.~~

~~The director of the Cherokee County Chamber of Commerce shall serve as an ex officio member of the Authority. The members appointed by the board of county commissioners shall serve three year terms, except the initial appointees. Of the initial appointees, the board of commissioners shall designate one to serve a one year term, two a two year term, and one a three year term. Vacancies created by an appointed member shall be filled by the board of commissioners. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill. 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 one-half 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 Cherokee County shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in 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. The members of the Tourism Development Authority shall elect from its membership a chairman. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to

~~govern its meetings. The finance officer of Cherokee County shall serve ex officio as accountant for the Authority.~~

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

~~"Sec. 7. Repeal of Levy.~~

(a) ~~The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Cherokee County, but no repeal of taxes levied under this act is effective until the end of the fiscal year in which the repeal resolution was adopted.~~

(b) ~~No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.~~

~~"Sec. 8. This act is effective upon ratification."~~

SECTION 2. G.S. 153A-155(g) reads as rewritten:

"§ 153A-155. Uniform provisions for room occupancy taxes.

(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Haywood, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

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

In the General Assembly read three times and ratified this the 30th day of June, 2008.

Became law on the date it was ratified.

Session Law 2008-34

H.B. 2437

AN ACT TO MAKE CONTINUING APPROPRIATIONS AND EXTEND CERTAIN BUDGET PROVISIONS UNTIL JULY 15, 2008, AT 11:59 P.M.

The General Assembly of North Carolina enacts:

BUDGET CONTINUATION

SECTION 1. The Director of the Budget shall not allocate funds for any of the purposes set out in the budget reductions contained in House Bill 2436, fourth edition, and House Bill 2436, seventh edition, that are not in controversy.

Vacant positions subject to the proposed budget reductions in either House Bill 2436, fourth edition, or House Bill 2436, seventh edition, shall not be filled.

Except as otherwise provided by this act, the limitations and directions for the 2007-2008 fiscal year set out in S.L. 2007-323, as amended, shall remain in effect.

NO AUTOMATIC STEP INCREASE FOR STATE AND PUBLIC SCHOOL EMPLOYEES

SECTION 2. 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.

CONTINUATION REVIEWS/ALLOTMENTS

SECTION 3. The programs and services identified in Section 6.21 of S.L. 2007-323 are appropriated at fiscal year 2007-2008 levels and the Director of the Budget shall allot these funds for the 2008-2009 fiscal year, except that:

- (1) The Director of the Budget shall not allocate funds for any of the purposes set out in the budget reductions contained in House Bill 2436, fourth edition, and House Bill 2436, seventh edition, that are not in controversy.
- (2) Vacant positions subject to the proposed budget reductions in either House Bill 2436, fourth edition, or House Bill 2436, seventh edition, shall not be filled.

The appropriations and the authorizations to allocate and spend funds which are set out in this section shall remain in effect until The Current Operations and Capital Improvements Appropriations Act of 2008 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 2008 becomes law, the Director of the Budget shall adjust allotments to give effect to that act from July 1, 2008.

Except as otherwise provided by this act, the limitations and directions for the 2007-2008 fiscal year set out in S.L. 2007-323, as amended, shall 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 section.

FUNDS SHALL NOT REVERT

SECTION 3.1.(a) If the provisions of either House Bill 2436, fourth edition, or House Bill 2436, seventh edition, or both, direct that funds shall not revert, the funds shall not revert on June 30, 2008. Unless these funds are encumbered on or before June 30, 2008, these funds shall not be expended after June 30, 2008, except as provided by a law enacted after June 30, 2008.

SECTION 3.1.(b) This section becomes effective June 30, 2008.

STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30

SECTION 4.(a) Notwithstanding G.S. 143C-4-3, for the 2007-2008 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, 2008.

SECTION 4.(b) Notwithstanding G.S. 143C-4-2, for the 2007-2008 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, 2008.

SECTION 4.(c) This section becomes effective June 30, 2008.

DHHS BLOCK GRANTS

SECTION 5.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2009, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES
(TANF) BLOCK GRANT

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance (Cash Assistance)	\$90,857,234
02.	Work First County Block Grants	94,453,315
03.	Work First Functional Assessment	2,721,787
04.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
05.	Work First – Boys and Girls Clubs	2,000,000
06.	Work First – After-School Services for At-Risk Children	2,049,642
07.	Work First – After-School Programs for At-Risk Youth in Middle Schools	500,000
08.	Work First – Connect, Inc.	550,000
09.	Work First – Citizens Schools Program	600,000
10.	Adoption Services – Special Children's Adoption Fund	3,000,000
11.	Family Violence Prevention	2,200,000

Division of Child Development

12.	Subsidized Child Care Program	61,087,077
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Division of Public Health

13.	Teen Pregnancy Prevention Initiatives	450,000
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DHHS Administration

14.	Division of Social Services	995,142
15.	Office of the Secretary	66,101
16.	Office of the Secretary/DIRM – TANF Automation Projects	595,541
17.	Office of the Secretary/DIRM – NC FAST Implementation	1,200,000

Transfers to Other Block Grants

Division of Child Development

18.	Transfer to the Child Care and Development Fund	84,330,900
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Division of Social Services

19.	Transfer to Social Services Block Grant for Department of Juvenile Justice and Delinquency Prevention – Support Our Students	2,649,642
20.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	2,738,827
21.	Transfer to Social Services Block Grant for Maternity Homes	838,000
22.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000
23.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,620,619
24.	Transfer to Social Services Block Grant for Foster Care Services	2,372,587
25.	Transfer to Social Services Block Grant for Medically Fragile Children	190,000

TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT	\$378,018,805
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SOCIAL SERVICES BLOCK GRANT

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

01.	County Departments of Social Services (Transfer from TANF – \$4,620,619)	\$ 28,868,189
02.	State In-Home Services Fund	2,101,113
03.	State Adult Day Care Fund	2,155,301
04.	Child Protective Services/CPS Investigative Services – Child Medical Evaluation Program	238,321
05.	Foster Care Services (Transfer from TANF)	2,372,587
06.	Child Protective Services – Child Welfare Training for Counties (Transfer from TANF)	2,738,827
07.	Maternity Homes (Transfer from TANF)	838,000
08.	Special Children Adoption Incentive Fund	500,000

Division of Aging and Adult Services

09.	Home and Community Care Block Grant (HCCBG)	1,834,077
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Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

10.	Mental Health Services Program	422,003
11.	Developmental Disabilities Services Program	5,000,000
12.	Mental Health Services – Adult and Child/Developmental Disabilities Program/ Substance Abuse Services – Adult	3,234,601

Division of Child Development

13.	Subsidized Child Care Program	3,150,000
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Division of Vocational Rehabilitation

14.	Vocational Rehabilitation Services – Easter Seal Society/UCP	188,263
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Division of Public Health		
15.	Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
16.	Services to Medically Fragile Children	290,000
DHHS Program Expenditures		
Division of Aging and Adult Services		
17.	UNC-CARES Training Contract	247,920
Division of Services for the Blind		
18.	Independent Living Program	3,633,077
Division of Health Service Regulation		
19.	Adult Care Licensure Program	411,897
20.	Mental Health Licensure and Certification Program	205,668
DHHS Administration		
21.	Division of Aging and Adult Services	675,593
22.	Division of Social Services	869,058
23.	Office of the Secretary/Controller's Office	135,093
24.	Office of the Secretary/DIRM	82,009
25.	Division of Child Development	15,000
26.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	28,860
27.	Division of Health Service Regulation	216,418
28.	Office of the Secretary – NC Inter-Agency Council For Coordinating Homeless Programs	250,000
29.	Office of the Secretary – Housing Coalition	100,000
30.	Office of the Secretary	46,819
Transfers to Other State Agencies		

Department of Administration		
31.	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198
Department of Juvenile Justice and Delinquency Prevention		
32.	Support Our Students (Transfer from TANF)	2,649,642
Transfers to Other Block Grants		
Division of Public Health		
33.	Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning	145,819
TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 66,347,353
LOW-INCOME ENERGY BLOCK GRANT		
Local Program Expenditures		
Division of Social Services		
01.	Low-Income Energy Assistance Program (LIHEAP)	\$ 19,510,559
02.	Crisis Intervention Program (CIP)	14,588,514
Office of the Secretary – Office of Economic Opportunity		
03.	Weatherization Program	6,268,946
04.	Heating Air Repair & Replacement Program (HARRP)	2,923,950
Local Administration		
Division of Social Services		
05.	County DSS Administration	2,259,757
Office of the Secretary – Office of Economic Opportunity		
06.	Local Residential Energy Efficiency Service Providers – Weatherization	268,146
07.	Local Residential Energy Efficiency Service Providers – HARRP	125,067

DHHS Administration

08.	Division of Social Services	219,410
09.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	7,389
10.	Office of the Secretary/DIRM	245,395
11.	Office of the Secretary/Controller's Office	11,211
12.	Office of the Secretary/Office of Economic Opportunity – Weatherization	268,146
13.	Office of the Secretary/Office of Economic Opportunity – HARRP	125,067

Transfers to Other State Agencies

14.	Department of Administration – N.C. State Commission of Indian Affairs	60,947
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TOTAL LOW-INCOME ENERGY BLOCK GRANT \$ 46,882,504

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

Local Program Expenditures

Division of Child Development

01.	Subsidized Child Care Services	\$148,484,960
02.	Child Care Services Support – Contract	504,695
03.	Subsidized Child Care Services (TANF to CCDF)	84,330,900

DHHS Program Expenditures

Division of Child Development

04.	Quality and Availability Initiatives	27,298,901
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Local Administration

Division of Social Services

05.	Administrative Expenses (Nondirect Subsidy Services Support)	15,813,021
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DHHS Administration

06. DCD Administrative Expenses 6,540,707

DHHS Central Management and Support

07. DHHS Central Administration – DIRM
Technical Services 749,081

TOTAL CHILD CARE AND DEVELOPMENT FUND
BLOCK GRANT \$283,722,265

MENTAL HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01. Mental Health Services – Adult \$ 6,854,932

02. Mental Health Services – Child 3,921,991

03. Comprehensive Treatment Service
Program 1,500,000

04. Mental Health Services – UNC School of Medicine,
Department of Psychiatry 300,000

Local Administration

05. Division of Mental Health 100,000

TOTAL MENTAL HEALTH SERVICES BLOCK GRANT \$ 12,676,923

SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT

Local Program Expenditures

01. Substance Abuse Services – Adult \$ 21,938,080

02. Substance Abuse Services – ADATC
One-Time Expenses 70,000

03. Substance Abuse Treatment Alternative for
Women 8,069,524

04. Substance Abuse – HIV and IV Drug 5,116,378

05. Substance Abuse Prevention – Child 7,186,857

06.	Substance Abuse Services – Child	4,940,500
	Division of Public Health	
07.	Risk Reduction Projects	633,980
08.	Aid-to-Counties	209,576
09.	Maternal Health	37,779
	DHHS Administration	
10.	Division of Mental Health	500,000
	TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	\$ 48,702,674
	MATERNAL AND CHILD HEALTH BLOCK GRANT	
	Local Program Expenditures	
	Division of Public Health	
01.	Children's Health Services	7,415,569
02.	Women's Health	7,504,019
03.	Oral Health	35,951
	DHHS Program Expenditures	
	Division of Public Health	
04.	Children's Health Services	1,554,428
05.	Women's Health	121,285
06.	State Center for Health Statistics	120,364
07.	Quality Improvement in Public Health	14,646
08.	Health Promotion	84,843
09.	Office of Minority Health	51,562
10.	Immunization Program – Vaccine Distribution	310,667
11.	Task Force on Preventing Childhood Obesity	100,000

DHHS Administration

12. Division of Public Health Administration 631,966

TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT \$ 17,945,300

PREVENTIVE HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01. NC Statewide Health Promotion \$1,755,653

02. Services to Rape Victims 197,112

03. HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant) 145,819

DHHS Program Expenditures

04. NC Statewide Health Promotion 1,508,889

05. Oral Health 70,000

06. State Laboratory of Public Health 16,600

TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT \$3,694,073

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity – Community Services Block Grant

01. Community Action Agencies \$ 16,062,653

02. Limited Purpose Agencies 892,370

DHHS Administration

03. Office of Economic Opportunity 892,369

TOTAL COMMUNITY SERVICES BLOCK GRANT \$ 17,847,392

GENERAL PROVISIONS

SECTION 5.(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.(c) Changes in Federal Fund Availability. – If the Congress of the United States 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 proportionally across the program and activity appropriations identified for that Block Grant 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 State administrative expenditures.

If the Congress of the United States decreases 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 reduce State administration by at least the percentage of the reduction in federal funds. After determining the State administration, the remaining reductions shall be allocated proportionately 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 unless it is related to the State administration.

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 Commission 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.(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. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)

SECTION 5.(e) The sum of nine hundred ninety-five thousand one hundred forty-two dollars (\$995,142) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 5.(f) The sum of two million two hundred thousand dollars (\$2,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 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, 2008. 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, 2008, 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, 2008. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

SECTION 5.(g) The sum of two million forty-nine thousand six hundred forty-two dollars (\$2,049,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year 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, school dropout, and gang participation. 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.

SECTION 5.(h) The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2008-2009 fiscal year for child welfare improvements, shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and postadoption services for eligible families.

SECTION 5.(i) 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 2008-2009 fiscal year shall be used in accordance with Section 10.31 of S.L. 2007-323. 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.(j) The sum of one million two hundred thousand dollars (\$1,200,000) in this section appropriated to the Department of Health and Human Services in the TANF Block Grant for the 2008-2009 fiscal year shall be used to implement N.C. FAST (North Carolina Families Accessing Services through Technology). The N.C. FAST program involves the entire automation initiative through which families access services and local departments of social services deliver benefits, supervised by the Department of Health and Human Services, Divisions of Social Services, Aging and Adult Services, Medical Assistance, and Child Development. The statewide automated initiative shall be implemented in compliance with federal regulations in order to ensure federal financial participation in the project. 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, 2009.

SECTION 5.(k) 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 for the 2008-2009 fiscal year 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, school dropout, and gang participation. 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.

SECTION 5.(l) In implementing the TANF Block Grant, the Department of Health and Human Services shall review policies, programs, and initiatives to ensure that they support men in their role as fathers and strengthen fathers' involvement in their children's lives. The Department shall encourage county departments of social services

to ensure their Work First programs emphasize responsible fatherhood and increased participation by noncustodial fathers.

SECTION 5.(m) 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 for the 2008-2009 fiscal year shall be transferred to Connect, Inc. Connect, 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 Connect, 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 Connect, 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, 2008.

SECTION 5.(n) The sum of two million dollars (\$2,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs for the 2008-2009 fiscal year 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 gang participation, 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.(o) The Department of Health and Human Services, Division of Social Services, shall continue implementing county demonstration grants that began in the 2006-2007 fiscal year. The county demonstration grants may be awarded for up to three years with all projects ending no later than the end of fiscal year 2009-2010. The purpose of the county demonstration grants is to identify best practices that can be used by counties to improve the work participation rates. The Division of Social Services is authorized to establish two time-limited positions to manage the grant award process and monitor the demonstration projects through fiscal year 2009-2010.

Funding provided under the county demonstration grants shall not be used to supplant local funds, and counties shall be required to maintain the current level of effort and funding for the Work First program.

The Department of Health and Human Services, Division of Social Services, shall report on the status of county demonstration grants implemented pursuant to 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 February 1, 2009.

SECTION 5.(p) The sum of six hundred thousand dollars (\$600,000) appropriated under this section in the TANF block grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year shall be used to implement a Citizens Schools Program, a three-year urban/rural dropout prevention pilot program in the Durham and Vance county public school systems. The

Citizens Schools Program provides high-quality, extended learning time for middle school students in schools with high percentages of minority students, poor students, or both, and students with other risk factors for dropping out and reduces the rate of teen pregnancy. Students in the Citizens Schools Program receive after-school instruction in groups of eight to 12 students per adult. The instruction includes: (i) 60 minutes of daily academic support with strong study skills and critical thinking components, (ii) four 11-week apprenticeships, using volunteers as leaders focusing on 21st century skills, and (iii) career exploration and choice time to further explore a variety of interests. Citizens Schools Team Leaders contact each student's family by telephone at least every two weeks to discuss the student's participation and progress.

North Carolina State University shall evaluate the program to ensure that the program is effectively helping students stay in school and successfully graduate in their four-year cohort. The evaluation shall include a long-term study of the graduation cohort rate increase as well as short-term measures, including attendance, grade point average, discipline, the program dropout rate, credits earned, and postsecondary education matriculation. Not later than January 1, 2009, North Carolina State University 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 results of its evaluation.

SOCIAL SERVICES BLOCK GRANT

SECTION 5.(q) Social Services Block Grant funds appropriated to the North Carolina Inter-Agency Council for Coordinating Homeless Programs and the North Carolina Housing Coalition are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 5.(r) The sum of two million six hundred forty-nine thousand six hundred forty-two dollars (\$2,649,642) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2008-2009 fiscal year shall be used to support the existing Support Our Students program, including gang prevention, 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.(s) The sum of two million seven hundred thirty-eight thousand eight hundred twenty-seven dollars (\$2,738,827) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year 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 Master's Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
- (3) Provide training for residential child-caring facilities.
- (4) Provide for various other child welfare training initiatives.

SECTION 5.(t) The sum of eight hundred thirty-eight thousand dollars (\$838,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services for the 2008-2009 fiscal year shall be used to purchase services at maternity homes throughout the State.

SECTION 5.(u) The sum of two million three hundred seventy-two thousand five hundred eighty-seven dollars (\$2,372,587) appropriated in this section in

the Social Services Block Grant for child-caring agencies for the 2008-2009 fiscal year shall be allocated to the State Private Child-Caring Agencies Fund.

SECTION 5.(v) The sum of two hundred ninety thousand dollars (\$290,000) appropriated in this section in the Social Services Block Grant for services to medically fragile children for the 2008-2009 fiscal year shall be used for the child care component of pediatric day treatment centers for medically fragile children.

SECTION 5.(w) The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

SECTION 5.(x) 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.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 5.(y) 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.(z) 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.

MENTAL HEALTH BLOCK GRANT

SECTION 5.(aa) 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 2008-2009 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 2008-2009 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 10.10 of S.L. 2007-323.

SECTION 5.(bb) Of the three hundred thousand dollars (\$300,000) appropriated for the UNC School of Medicine, Department of Psychiatry, for the 2008-2009 fiscal year, the sum of two hundred thousand dollars (\$200,000) shall be used to: (i) expand the Department of Psychiatry's Schizophrenia Treatment and Evaluation Program (STEP) into a community setting, (ii) provide training for the next generation of psychiatrists, social workers, psychologists, and nurses to address the current workforce crisis, (iii) provide statewide training and consultation in

evidence-based practices, and (iv) provide ongoing support for the STEP and OASIS clinics.

Of the three hundred thousand dollars (\$300,000) appropriated for the UNC School of Medicine, Department of Psychiatry, for the 2008-2009 fiscal year, the sum of one hundred thousand dollars (\$100,000) shall be used to provide bridge funding for OASIS, a statewide program providing targeted, intense interventions to individuals in the early stages of schizophrenia when chronicity and disability may be most preventable. Funds shall be used to support OASIS as foundation support ends, allowing OASIS to transition to funding through private insurance, Medicaid, State appropriations for Mental Health, Developmental Disabilities, and Substance Abuse Services, and other funding streams.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 5.(cc) The sum of one hundred thousand dollars (\$100,000) appropriated in this section in the Maternal and Child Health Block Grant to the Department of Health and Human Services, Division of Public Health, for the 2008-2009 fiscal year shall be used to establish a Task Force on Preventing Childhood Obesity (Task Force) to be cochaired by the State Health Director and the Chairman of the State Board of Education. The Task Force is to review current State activities in the Department of Health and Human Services, the Department of Public Instruction, and the Health and Wellness Trust Fund and develop a comprehensive statewide strategic plan with recommendations for preventing childhood obesity. The goals of the strategic plan shall encompass the following framework of initiatives:

- (1) Providing healthier foods to students;
- (2) Improving the availability of healthy foods at home and in the community;
- (3) Increasing the frequency, intensity, and duration of physical activity in schools;
- (4) Encouraging communities to establish a master plan for pedestrian and bicycle pathways;
- (5) Improving access to safe places where children can play; and
- (6) Developing activities or programs that limit children's screen time, including limits on video games and television.

Membership on the task force shall include, but is not limited to, representatives from the following organizations:

- (1) Health and Wellness Trust Fund.
- (2) North Carolina Institute for Public Health.
- (3) UNC Active Living by Design.
- (4) Blue Cross Blue Shield of North Carolina.
- (5) NC Hospital Association.
- (6) NC Parent Teacher Association.
- (7) American Heart Association.
- (8) School Nutrition Association of North Carolina.

The Chairman of the State Board of Education and the State Health Director shall report to the House of Representatives Chairs of the Appropriations Subcommittees on Health and Human Services and Education, the Senate Chairs of the Appropriations Committees on Health and Human Services and Education/Public Instruction, the Joint Legislative Oversight Committee on Education, the Joint Legislative Oversight Committee on Health, and the Fiscal Research Division on the Task Force on

Preventing Childhood Obesity's strategic plan and recommendations by January 15, 2009, or upon the convening of the 2009 Session of the General Assembly, whichever occurs first.

SECTION 5.(dd) 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 2008-2009 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.(ee) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

NER BLOCK GRANTS

SECTION 6.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2009, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 1,000,000
02. Urgent Needs and Contingency	1,000,000
03. Scattered Site Housing	13,200,000
04. Economic Development	8,710,000
05. Small Business/Entrepreneurship	1,000,000
06. Community Revitalization	13,000,000
07. State Technical Assistance	450,000
08. Housing Development	1,500,000
09. Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2009 Program Year	\$ 45,000,000

SECTION 6.(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 6.(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 6.(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 one million dollars (\$1,000,000) 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; eight million seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; up to one million dollars (\$1,000,000) may be used for Small Business/Entrepreneurship; not less than thirteen million dollars (\$13,000,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to one million five hundred thousand dollars (\$1,500,000) 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 6.(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 6.(f) 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 fewer 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.

HOUSING FINANCE AGENCY HOME PROTECTION PILOT PROGRAM

SECTION 7. Section 22.1.(f) of S.L 2007-323 reads as rewritten:

"SECTION 22.1.(f) This section applies ~~only~~ to the 2007-2008 fiscal year. year and to the 2008-2009 fiscal year."

EFFECTIVE DATE

SECTION 8. This act becomes effective June 30, 2008, and expires July 15, 2008, at 11:59 P.M.

In the General Assembly read three times and ratified this the 30th day of June, 2008.

Became law upon approval of the Governor at 9:00 p.m. on the 30th day of June, 2008.

Session Law 2008-35**S.B. 1876**

AN ACT TO MODIFY THE CIRCUIT BREAKER TAX BENEFIT, TO STANDARDIZE ADMINISTRATION OF ALL DEFERRED PROPERTY TAX PROGRAMS, AND TO CORRECT THE EFFECTIVE DATE OF CHANGES TO THE HOMESTEAD EXCLUSION.

The General Assembly of North Carolina enacts:

PART I: CIRCUIT BREAKER MODIFICATIONS

SECTION 1.1. G.S. 105-273 reads as rewritten:

"§ 105-273. Definitions.

~~When used in this Subchapter (unless the context requires a different meaning):~~ The following definitions apply in this Subchapter:

- (1) ~~"Abstract" means the~~ Abstract. – The document on which the property of a taxpayer is listed for ad valorem taxation and on which the appraised and assessed values of the property are recorded.
- (2) ~~"Appraisal" means both the~~ Appraisal. – The true value of property and or the process by which true value is ascertained.
- (3) ~~"Assessment" means both the~~ Assessment. – The tax value of property and or the process by which the assessment is determined.
- (4) Repealed by Session Laws 1973, c. 695, s. 15, effective January 1, 1974.
- (4a) ~~"Code" [is] defined~~ Code. – Defined in G.S. 105-228.90.
- (5) ~~"Collector" or "tax collector" means any~~ Collector or tax collector. – A person charged with the duty of collecting taxes for a county or municipality.
- (5a) ~~"Contractor" means a~~ Construction contractor. – A taxpayer who is regularly engaged in building, installing, repairing, or improving real property.
- (6) ~~"Corporation" includes nonprofit corporation and every type of~~ Corporation. – An organization having capital stock represented by shares, or an incorporated, nonprofit organization.
- (6a) ~~"Discovered property" includes all~~ Discovered property. – Any of the following:
 - a. Property that was not listed during a listing period.
 - b. Property that was listed but the listing included a substantial understatement.
 - c. Property that has been granted an exemption or exclusion and does not qualify for the exemption or exclusion.

- (6b) ~~"To discover property" means to~~Discover property. ~~– determine~~Determine any of the following:
- a. Property has not been listed during a listing period.
 - b. A taxpayer made a substantial understatement of listed property.
 - c. Property was granted an exemption or exclusion and the property does not qualify for an exemption or exclusion.
- (7) ~~"Document" includes book,~~Document. – A book, paper, record, statement, account, map, plat, film, picture, tape, object, instrument, ~~and or~~ any other thing conveying information.
- (7a) ~~"Failure to list property" includes all~~Failure to list property. – Any of the following:
- a. Failure to list property during a listing period.
 - b. A substantial understatement of listed property.
 - c. Failure to notify the assessor that property granted an exemption or exclusion under an application for exemption or exclusion does not qualify for the exemption or exclusion.
- (8) ~~"Intangible personal property" means patents,~~Intangible personal property. – Patents, copyrights, secret processes, formulae, good will, trademarks, trade brands, franchises, stocks, bonds, cash, bank deposits, notes, evidences of debt, leasehold interests in exempted real property, bills and accounts receivable, ~~and or~~ other like property.
- (8a) ~~"Inventories" means~~Inventories. – Any of the following:
- a. ~~(i) goods~~Goods held for sale in the regular course of business by manufacturers, retail and wholesale merchants, and ~~contractors, and (ii) construction contractors. As to retail and wholesale merchants and construction contractors, the term includes packaging materials that accompany and become a part of the goods sold.~~
 - b. ~~goods~~Goods held by construction contractors to be furnished in the course of building, installing, repairing, or improving real property.
 - c. As to manufacturers, ~~the term includes raw~~ raw materials, goods in process, ~~and finished goods, as well as or~~ other materials or supplies that are consumed in manufacturing or ~~processing,~~ processing or that accompany and become a part of the sale of the property being sold. The term does not include fuel used in manufacturing or processing and materials or supplies not used directly in manufacturing or processing.
 - d. ~~The term also includes a~~A modular home as defined in G.S. 105-164.3(21b) that is used exclusively as a display model and held for eventual sale at the retail merchant's place of business.
 - e. ~~The term also includes crops,~~Crops, livestock, poultry, feed used in the production of livestock and poultry, ~~and or~~ other agricultural or horticultural products held for sale, whether in process or ready for sale. ~~The term does not include fuel used in manufacturing or processing, nor does it include materials or supplies not used directly in manufacturing or processing. As to~~

- ~~retail and wholesale merchants and contractors, the term includes, in addition to articles held for sale, packaging materials that accompany and become a part of the sale of the property being sold.~~
- (9) ~~"List" or "listing," when used as a noun, means abstract.~~List or listing.
– An abstract, when the term is used as a noun.
- (10) Repealed by Session Laws 1987, c. 43, s. 1.
- (10a) ~~"Local tax official" includes a~~Local tax official. – A county assessor, an assistant county assessor, a member of a county board of commissioners, a member of a county board of equalization and review, a county tax collector, ~~and~~or the municipal ~~equivalents~~equivalent of one of these officials.
- (10b) ~~"Manufacturer" means a~~Manufacturer. – A taxpayer who is regularly engaged in the mechanical or chemical conversion or transformation of materials or substances into new products for sale or in the growth, breeding, raising, or other production of new products for sale. The term does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.
- (11) ~~"Municipal corporation" and "municipality" mean city,~~Municipal corporation or municipality. – A city, town, incorporated village, sanitary district, rural fire protection district, rural recreation district, mosquito control district, hospital district, metropolitan sewerage district, watershed improvement district, a consolidated city-county as defined by G.S. 160B-2, or ~~other~~another district or unit of local government by or for which ad valorem taxes are levied. ~~The terms also include a consolidated city-county as defined by G.S. 160B-2(1).~~
- (12) ~~"Person" and "he" include any~~Person. – An individual, a trustee, an executor, an administrator, ~~other~~another fiduciary, a corporation, a limited liability company, an unincorporated association, a partnership, a sole proprietorship, a company, a firm, or ~~other~~another legal entity.
- (13) ~~"Real property," "real estate," and "land" mean not only the~~Real property, real estate, or land. – Any of the following:
- a. ~~The land itself,~~itself.
 - b. ~~but also buildings,~~Buildings, structures, improvements, ~~and~~or permanent fixtures on ~~the land,~~land.
 - c. ~~and all~~All rights and privileges belonging or in any way appertaining to the property.
 - d. ~~These terms also mean a~~A manufactured home as defined in ~~G.S. 143-143.9(6)~~G.S. 143-143.9(6), unless it is considered tangible personal property for failure to meet all of the following requirements:
 1. ~~if it~~It is a residential ~~structure;~~structure.
 2. It has the moving hitch, wheels, and axles ~~removed;~~removed.
 3. ~~and~~It is placed upon a permanent foundation either on land owned by the owner of the manufactured home or on land in which the owner of the manufactured home has a leasehold interest pursuant to a lease with a

primary term of at least 20 years ~~for the real property on which the manufactured home is affixed and where the lease expressly provides for disposition of the manufactured home upon termination of the lease. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property.~~

- (13a) ~~"Retail Merchant" means a~~Retail merchant. – A taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to users or consumers.
- (13b) ~~"Substantial understatement" means the~~Substantial understatement. – The omission of a material portion of the value, quantity, or other measurement of taxable property. The determination of materiality in each case shall be made by the assessor, subject to the taxpayer's right to review of the determination by the county board of equalization and review or board of commissioners and appeal to the Property Tax Commission.
- (14) ~~"Tangible personal property" means all~~Tangible personal property. – All personal property that is not intangible and that is not permanently affixed to real property.
- (15) ~~"Tax" and "taxes" include the~~Tax or taxes. – The principal amount of any tax, costs, penalties, and interest imposed upon property tax or dog license tax, property tax or dog license tax and costs, penalties, and interest.
- (16) ~~"Taxing unit" means a~~Taxing unit. – A county or municipality authorized to levy ad valorem property taxes.
- (17) ~~"Taxpayer" means any~~Taxpayer. – A person whose property is subject to ad valorem property taxation by any county or municipality and any person who, under the terms of this Subchapter, has a duty to list property for taxation. ~~For purposes of collecting delinquent ad valorem taxes assessed on real property under G.S. 105-366 through G.S. 105-375, "taxpayer" means the owner of record on the date the taxes become delinquent and any subsequent owner of record of the real property if conveyed after that date.~~
- (18) ~~"Valuation" means appraisal~~Valuation. – Appraisal and assessment.
- (19) ~~"Wholesale Merchant" means a~~Wholesale merchant. – A taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to other retail or wholesale merchants for resale or to manufacturers for use as ingredient or component parts of articles being manufactured for sale."

SECTION 1.2. G.S. 105-277.1B reads as rewritten:

"§ 105-277.1B. Property tax homestead circuit breaker.

(a) Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section.

(b) Definitions. – The definitions provided in G.S. 105-277.1 apply to this section.

(c) **Income Eligibility Limit.** – The income eligibility limit provided in G.S. 105-277.1(a2) applies to this section.

(d) **Qualifying Owner.** – For the purpose of qualifying for the property tax homestead circuit breaker under this section, a qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

- (1) The owner has an income for the preceding calendar year of not more than one hundred fifty percent (150%) of the income eligibility limit specified in subsection (c) of this section.
- (2) The owner has owned and occupied the property as a permanent residence for at least five years.
- (3) The owner is at least 65 years of age or totally and permanently disabled.
- (4) The owner is a North Carolina resident.

(e) **Multiple Owners.** – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of the property tax homestead circuit breaker notwithstanding that only one of them meets the occupation requirement and the age or disability requirement of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife, no property tax homestead circuit breaker is allowed unless all of the owners qualify and elect to defer taxes under this section.

(f) **Tax Limitation.** – A qualifying owner may defer the portion of tax imposed on his or her permanent residence if it exceeds ~~a~~the percentage of the qualifying owner's income ~~as provided in this section, set out in the table in this subsection.~~ If a permanent residence is subject to tax by more than one taxing unit and the total tax liability exceeds the tax limit imposed by this section, then both the taxes due under this section and the taxes deferred under this section must be apportioned among the taxing units based upon the ratio each taxing unit's tax rate bears to the total tax rate of all units.

Income	Percentage
Less than the income eligibility limit	4.0%
100% to 150% of the income eligibility limit	5.0%
<u>Income Over</u>	<u>Income Up To</u>
-0-	Income Eligibility Limit
Income Eligibility Limit	150% of Income Eligibility Limit
	<u>Percentage</u>
	4.0%
	5.0%

(g) **Temporary Absence.** – An otherwise qualifying owner does not lose the benefit of this circuit breaker because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(h) **Deferred Taxes.** – The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes for the three fiscal years preceding the current tax year shall be carried forward in the records of the taxing unit or units as deferred taxes. ~~Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due.~~ The deferred taxes are due and payable in accordance with G.S. 105-277.1C when the property loses its eligibility for deferral because of the occurrence of a disqualifying event as provided in subsection (i) of this section. On or before September 1 of each

year, the assessor-collector shall notify each residence owner to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

(i) ~~Disqualifying Events. – Taxes deferred under this section are payable within nine months after a disqualifying event. The tax for the fiscal year that opens in a calendar year in which deferred taxes become due is computed as if the property was not eligible for property tax relief under this section. Each of the following constitutes a disqualifying event:~~

- (1) ~~The owner transfers the residence. Transfer of the residence under this subdivision is not a disqualifying event if (i) the owner transfers the residence as part of a divorce proceeding to a co-owner of the residence or, as part of a divorce proceeding, to either his or her spouse who qualifies for tax deferral under this section or to a co-owner of the residence, and (ii) that individual occupies or continues to occupy the property as his or her permanent residence, and (iii) that individual elects to continue deferring payment of the tax residence.~~
- (2) ~~The owner dies. Death of the owner under this subdivision is not a disqualifying event if (i) the owner's share passes to either a co-owner of the residence or to his or her spouse who qualifies for tax deferral under this section or to a co-owner of the residence, and (ii) that individual occupies or continues to occupy the property as his or her permanent residence, and (iii) that individual elects to continue deferring payment of the tax residence.~~
- (3) ~~The owner ceases to use the property as a permanent residence.~~

(j) ~~Interruption of Qualification. – If the owner of a tax deferred residence does not qualify under this section for deferral as of January 1 preceding a taxable year for reasons other than a disqualifying event or if the owner of a tax deferred residence revokes an application for deferral by notifying the assessor in writing, the owner may not defer any additional property taxes under this section without submitting a new application. Deferred taxes from earlier years do not become due because of an interruption of qualification; however, deferred taxes existing at the time of an interruption of qualification shall be carried forward until the occurrence of a disqualifying event. If the owner qualifies for tax deferral under this section following an interruption of qualification, the taxing unit or units shall disregard the years during which there was an interruption of qualification for purposes of determining the three fiscal years preceding the current tax year under subsection (g) of this section.~~
Gap in Deferral. – If an owner of a residence on which taxes have been deferred under this section is not eligible for continued deferral for a tax year, the taxes deferred from the prior tax years are not due and payable but are carried forward until a disqualifying event occurs. If the owner of the residence qualifies for deferral after one or more years in which he or she did not qualify for deferral, the years in which the owner did not qualify are disregarded in determining the three years for which the deferred taxes are carried forward.

(k) ~~Prepayment. – All or part of the deferred taxes and accrued interest may be paid to the tax collector at any time. Any partial payment is applied first to accrued interest. A residence owner to whom a tax deferral has previously been granted may revoke the application for deferral at any time by notifying the assessor in writing.~~

(l) ~~Creditor Limitations. – A mortgagee or trustee that elects to pay any tax deferred by the owner of a residence subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election. Except for requirements dictated~~

by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the owner from deferring taxes on property under this section is void.

(m) Construction. – This section does not affect the attachment of a lien for personal property taxes against a tax-deferred residence.

(n) Application. – An application for property tax relief provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the relief is claimed. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1."

SECTION 1.3. G.S. 105-282.1(a)(2)e. is repealed.

SECTION 1.4. G.S. 153A-148.1(a) is amended by adding a new subdivision to read:

"(a) Disclosure Prohibited. – Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a county who in the course of service to or employment by the county has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(6) To include on a property tax receipt the amount of property taxes due and the amount of property taxes deferred on a residence classified under G.S. 105-277.1B, the property tax homestead circuit breaker."

SECTION 1.5. G.S. 160A-208.1(a) is amended by adding a new subdivision to read:

"(a) Disclosure Prohibited. – Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a city who in the course of service to or employment by the city has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(4) To include on a property tax receipt the amount of property taxes due and the amount of property taxes deferred on a residence classified under G.S. 105-277.1B, the property tax homestead circuit breaker."

PART II: DEFERRAL PROGRAM MODIFICATIONS

SECTION 2.1. G.S. 105-275(29a) reads as rewritten:

"§ 105-275. **Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(29a) Land that is within an historic district ~~held,~~ and is held by a nonprofit corporation organized for historic preservation ~~purposes,~~ purposes for use as a future site for an historic structure that is to be moved to the site from another location. Property may be classified under this

subdivision for no more than five years. The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes and shall be payable five years from the fiscal year the exclusion is first claimed unless an historic structure is moved onto the site during that time. If an historic structure has not been moved to the site within five years, then deferred taxes for the preceding five fiscal years shall immediately be payable, together with interest as provided in G.S. 105-360 for unpaid taxes that shall accrue on the deferred taxes as if they had been payable on the dates on which they would originally become due. All liens arising under this subdivision are extinguished upon either the payment of any deferred taxes under this subdivision or the location of an historic structure on the site within the five-year period allowed under this subdivision. The deferred taxes are due and payable in accordance with G.S. 105-277.1C when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when an historic structure is not moved to the property within five years from the first day of the fiscal year the property was classified under this subdivision."

SECTION 2.2. Chapter 105 of the North Carolina General Statutes is amended by adding a new section to read:

"§ 105-277.1C. Uniform provisions for payment of deferred taxes.

(a) Scope. – This section applies to the following deferred tax programs:

- (1) G.S. 105-275(29a), historic district property held as future site of historic structure.
- (2) G.S. 105-277.1B, the property tax homestead circuit breaker.
- (3) G.S. 105-277.4(c), present-use value property.
- (4) G.S. 105-277.14, working waterfront property.
- (5) G.S. 105-278(b), historic property.
- (6) G.S. 105-278.6(e), nonprofit property held as future site of low- or moderate-income housing.

(b) Payment. – Taxes deferred on property under a deferral program listed in subsection (a) of this section are due and payable on the day the property loses its eligibility for the deferral program as a result of a disqualifying event. If only a part of property for which taxes are deferred loses its eligibility for deferral, the assessor must determine the amount of deferred taxes that apply to that part and that amount is due and payable. Interest accrues on deferred taxes as if they had been payable on the dates on which they would have originally become due.

The tax for the fiscal year that begins in the calendar year in which the deferred taxes are due and payable is computed as if the property had not been classified for that year. A lien for deferred taxes is extinguished when the taxes are paid.

All or part of the deferred taxes that are not due and payable may be paid to the tax collector at any time without affecting the property's eligibility for deferral. A partial payment is applied first to accrued interest."

SECTION 2.3. G.S. 105-277.4(c) reads as rewritten:

"(c) Deferred Taxes. – Land meeting the conditions for classification under G.S. 105-277.3 must be taxed on the basis of the value of the land for its present use.

The difference between the taxes due on the present-use basis and the taxes that would have been payable in the absence of this classification, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes must be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1C when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the land fails to meet any condition or requirement for classification or when an application is not approved. The taxes become due and payable when the land fails to meet any condition or requirement for classification. Failure to have an application approved is ground for disqualification. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the land had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred are immediately payable, together with interest as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. If only a part of the qualifying tract of land fails to meet a condition or requirement for classification, the assessor must determine the amount of deferred taxes applicable to that part and that amount becomes payable with interest as provided above. Upon the payment of any taxes deferred in accordance with this section for the three years immediately preceding a disqualification, all liens arising under this subsection are extinguished. The deferred taxes for any given year may be paid in that year without the qualifying tract of land becoming ineligible for deferred status.

SECTION 2.4. G.S. 105-277.14(c) reads as rewritten:

"(c) **Deferred Taxes.** – The difference between the taxes that are due on working waterfront property taxed on the basis of its present use and that would be due if the property were taxed on the basis of its true value is a lien on the property. The difference in taxes must be carried forward in the records of each taxing unit as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1C when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the property no longer qualifies as working waterfront property. The deferred taxes become due when the property no longer qualifies as working waterfront property. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the property had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred are immediately payable, together with interest, as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. If only a part of the property no longer qualifies as working waterfront property, the assessor must determine the amount of deferred taxes applicable to that part and that amount becomes payable with interest. Upon the payment of any taxes deferred under this section for the three years immediately preceding a disqualification, all liens arising under this subsection are extinguished.

SECTION 2.5. G.S. 105-278(b) reads as rewritten:

"(b) The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in ~~G.S. 105-355(a)~~ and G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes, ~~but shall not be~~

~~payable until the property loses its eligibility for the benefit of this classification because of a change in an ordinance designating a historic property or a change in the property, except by fire or other natural disaster, which causes its historical significance to be lost or substantially impaired. taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1C when the property loses the benefit of this classification as a result of a disqualifying event. A disqualifying event occurs when there is a change in an ordinance designating a historic property or a change in the property, other than by fire or other natural disaster, that causes the property's historical significance to be lost or substantially impaired. The tax for the fiscal year that opens in the calendar year in which a disqualification occurs shall be computed as if the property had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred as provided herein shall be payable immediately, together with interest thereon as provided in G.S. 105-360 for unpaid taxes, which shall accrue on the deferred taxes as if they had been payable on the dates on which they originally became due. If only a part of the historic property loses its eligibility for the classification, a determination shall be made of the amount of deferred taxes applicable to that part, and the amount shall be payable with interest as provided above."~~

SECTION 2.6. G.S. 105-278.6(e) reads as rewritten:

~~"(e) Real property held by an organization described in subdivision (a)(8) is held for a charitable purpose under this section if it is held for no more than five years as a future site for housing for individuals or families with low or moderate incomes. incomes may be classified under this section for no more than five years. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes and shall be payable five years after the tax year the exemption is first claimed unless the organization has constructed low- or moderate income housing on the site. If this condition has not been met, the deferred taxes for the preceding five fiscal years shall be payable immediately, together with interest as provided in G.S. 105-360 for unpaid taxes that accrues on the deferred taxes as if they had been payable on the dates they would have originally become due. All liens arising under this subsection are extinguished upon one of the following:~~

- ~~(1) Payment of all deferred taxes under this subsection.~~
- ~~(2) Construction by the organization of low- or moderate income housing on the site within five years after the tax year the exemption is first claimed. taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1C when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the organization fails to construct low- or moderate-income housing on the site within five years from the first day of the fiscal year the property was classified under this subsection."~~

SECTION 2.7. G.S. 105-360(a) reads as rewritten:

~~"(a) Taxes levied under this Subchapter by a taxing unit are due and payable on September 1 of the fiscal year for which the taxes are levied. Taxes are payable at par or face amount if paid before January 6 following the due date. Taxes paid on or after January 6 following the due date are delinquent and are subject to interest charges. Interest accrues on taxes paid on or after January 6 as follows:~~

- (1) For the period January 6 to February 1, interest accrues at the rate of two percent ~~(2%); and~~(2%).
- (2) For the period February 1 until the principal amount of the taxes, the accrued interest, and any penalties are paid, interest accrues at the rate of three-fourths of one percent (3/4%) a month or fraction thereof."

SECTION 2.8. Article 26 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-365.1. When and against whom collection remedies may be used.

(a) Date of Delinquency. – A tax collector may collect a tax using the remedies provided in G.S. 105-366 through G.S. 105-375 on or after the date the tax is delinquent. A tax is delinquent on the following date:

- (1) For a tax that is not a deferred tax, the date the tax accrues interest.
- (2) For a deferred tax, other than a tax described in subdivision (3) of this subsection, the date a disqualifying event occurs.
- (3) For a deferred tax under G.S. 105-277.1B that lost its eligibility for deferral due to the death of the owner, the first day of the ninth month following the date of death.

(b) Enforced Collection. – For purposes of using the collection remedies provided in G.S. 105-366 through G.S. 105-375 to collect delinquent taxes, the taxing unit shall proceed against property of the following taxpayer:

- (1) To collect delinquent taxes assessed on real property, the owner of record of property on which tax is due as of the date of delinquency and any subsequent owner of record of the property.
- (2) To collect delinquent taxes assessed on personal property, the owner of record as of January 1 of the calendar year in which the fiscal year of taxation begins.
- (3) To collect delinquent taxes assessed on a registered motor vehicle, the owner of record as of the date on which the current vehicle registration is renewed or the date on which a new registration is applied for."

PART III: TECHNICAL CORRECTION

SECTION 3. G.S. 105-277.1(a2) reads as rewritten:

"(a2) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2008)** Income Eligibility Limit. – ~~Until~~For the taxable year beginning on July 1, 2008, the income eligibility limit is twenty-five thousand dollars (\$25,000). For taxable years beginning on or after July 1, ~~2008, 2009,~~ the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to the benefits under Titles II and XVI of the Social Security Act for the preceding calendar year, rounded to the nearest one hundred dollars (\$100.00). On or before July 1 of each year, the Department of Revenue must determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and must notify the assessor of each county of the amount to be in effect for that taxable year."

PART IV: EFFECTIVE DATE

SECTION 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008

In the General Assembly read three times and ratified this the 25th day of June, 2008.

Became law upon approval of the Governor at 11:45 a.m. on the 1st day of July, 2008.

Session Law 2008-36

H.B. 2287

AN ACT TO EXPRESSLY AUTHORIZE THE USE OF ELECTRONIC OR FACSIMILE RECEIPTS UNDER RULE 4 OF THE RULES OF CIVIL PROCEDURE WHEN SERVICE OF PROCESS IS PROVIDED BY A DESIGNATED PRIVATE DELIVERY SERVICE, AND TO MAKE CONFORMING CHANGES REGARDING PROOF OF SERVICE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 4(j), reads as rewritten:

"(j) Process – Manner of service to exercise personal jurisdiction. – In any action commenced in a court of this State having jurisdiction of the subject matter and grounds for personal jurisdiction as provided in G.S. 1-75.4, the manner of service of process within or without the State shall be as follows:

- (1) Natural Person. – Except as provided in ~~subsection~~ subdivision (2) below, upon a natural person by one of the following:
 - a. By delivering a copy of the summons and of the complaint to the natural person or by leaving copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.
 - b. By delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to be served or to accept service of process or by serving process upon such agent or the party in a manner specified by any statute.
 - c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the party to be served, and delivering to the addressee.
 - d. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the party to be served, delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.
 - e. By mailing a copy of the summons and of the complaint by signature confirmation as provided by the United States Postal Service, addressed to the party to be served, and delivering to the addressee. ~~Nothing in this sub-subdivision authorizes the use of electronic mailing for service on the party to be served.~~
- (2) Natural Person under Disability. – Upon a natural person under disability by serving process in any manner prescribed in this section (j) for service upon a natural person and, in addition, where required by paragraph a or b below, upon a person therein designated.

- a. Where the person under disability is a minor, process shall be served separately in any manner prescribed for service upon a natural person upon a parent or guardian having custody of the child, or if there be none, upon any other person having the care and control of the child. If there is no parent, guardian, or other person having care and control of the child when service is made upon the child, then service of process must also be made upon a guardian ad litem who has been appointed pursuant to Rule 17.
 - b. If the plaintiff actually knows that a person under disability is under guardianship of any kind, process shall be served separately upon his guardian in any manner applicable and appropriate under this section (j). If the plaintiff does not actually know that a guardian has been appointed when service is made upon a person known to him to be incompetent to have charge of his affairs, then service of process must be made upon a guardian ad litem who has been appointed pursuant to Rule 17.
- (3) The State. – Upon the State by personally delivering a copy of the summons and of the complaint to the Attorney General or to a deputy or assistant attorney general; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the Attorney General or to a deputy or assistant attorney general; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the Attorney General or to a deputy or assistant attorney general, delivering to the addressee, and obtaining a delivery receipt. As used in this subdivision, "delivery receipt" includes an electronic or facsimile receipt.
- (4) An Agency of the State. –
- a. Upon an agency of the State by personally delivering a copy of the summons and of the complaint to the process agent appointed by the agency in the manner hereinafter provided; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to said process agent; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the process agent, delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.
 - b. Every agency of the State shall appoint a process agent by filing with the Attorney General the name and address of an agent upon whom process may be served.
 - c. If any agency of the State fails to comply with paragraph b above, then service upon such agency may be made by personally delivering a copy of the summons and of the complaint to the Attorney General or to a deputy or assistant attorney general; by mailing a copy of the summons and of the

- complaint, registered or certified mail, return receipt requested, addressed to the Attorney General, or to a deputy or assistant attorney general; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the Attorney General or to a deputy or assistant attorney general, delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.
- d. For purposes of this rule, the term "agency of the State" includes every agency, institution, board, commission, bureau, department, division, council, member of Council of State, or officer of the State government of the State of North Carolina, but does not include counties, cities, towns, villages, other municipal corporations or political subdivisions of the State, county or city boards of education, other local public districts, units, or bodies of any kind, or private corporations created by act of the General Assembly.
- (5) Counties, Cities, Towns, Villages and Other Local Public Bodies. –
- a. Upon a city, town, or village by personally delivering a copy of the summons and of the complaint to its mayor, city manager or clerk; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to its mayor, city manager or clerk; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the mayor, city manager, or clerk, delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.
- b. Upon a county by personally delivering a copy of the summons and of the complaint to its county manager or to the chairman, clerk or any member of the board of commissioners for such county; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to its county manager or to the chairman, clerk, or any member of this board of commissioners for such county; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the county manager or to the chairman, clerk, or any member of the board of commissioners of that county, delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.
- c. Upon any other political subdivision of the State, any county or city board of education, or other local public district, unit, or body of any kind (i) by personally delivering a copy of the summons and of the complaint to an officer or director thereof, (ii) by personally delivering a copy of the summons and of the

complaint to an agent or attorney-in-fact authorized by appointment or by statute to be served or to accept service in its behalf, (iii) by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director, agent, or attorney-in-fact as specified in (i) and (ii), or (iv) by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the officer, director, agent, or attorney-in-fact as specified in (i) and (ii), delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.

- d. In any case where none of the officials, officers or directors specified in paragraphs a, b and c can, after due diligence, be found in the State, and that fact appears by affidavit to the satisfaction of the court, or a judge thereof, such court or judge may grant an order that service upon the party sought to be served may be made by personally delivering a copy of the summons and of the complaint to the Attorney General or any deputy or assistant attorney general of the State of North Carolina; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the Attorney General or any deputy or assistant attorney general of the State of North Carolina; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the Attorney General or any deputy or assistant attorney general of the State of North Carolina, delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.
- (6) Domestic or Foreign Corporation. – Upon a domestic or foreign corporation by one of the following:
- a. By delivering a copy of the summons and of the complaint to an officer, director, or managing agent of the corporation or by leaving copies thereof in the office of such officer, director, or managing agent with the person who is apparently in charge of the office.
 - b. By delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to be served or to accept service of process or by serving process upon such agent or the party in a manner specified by any statute.
 - c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director or agent to be served as specified in paragraphs a and b.
 - d. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the officer, director, or agent to be

served as specified in paragraphs a. and b., delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.

- (7) Partnerships. – Upon a general or limited partnership:
- a. By delivering a copy of the summons and of the complaint to any general partner, or to any attorney-in-fact or agent authorized by appointment or by law to be served or to accept service of process in its behalf; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to any general partner, or to any attorney-in-fact or agent authorized by appointment or by law to be served or to accept service of process in its behalf; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to any general partner or to any attorney-in-fact or agent authorized by appointment or by law to be served or to accept service of process in its behalf, delivering to the addressee, and obtaining a delivery receipt; or by leaving copies thereof in the office of such general partner, attorney-in-fact or agent with the person who is apparently in charge of the office. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.
 - b. If relief is sought against a partner specifically, a copy of the summons and of the complaint must be served on such partner as provided in this section (j).
- (8) Other Unincorporated Associations and Their Officers. – Upon any unincorporated association, organization, or society other than a partnership by one of the following:
- a. By delivering a copy of the summons and of the complaint to an officer, director, managing agent or member of the governing body of the unincorporated association, organization or society, or by leaving copies thereof in the office of such officer, director, managing agent or member of the governing body with the person who is apparently in charge of the office.
 - b. By delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to be served or to accept service of process or by serving process upon such agent or the party in a manner specified by any statute.
 - c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director, agent or member of the governing body to be served as specified in paragraphs a and b.
 - d. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the officer, director, agent, or member of the governing body to be served as specified in paragraphs a. and b., delivering to the addressee, and obtaining a delivery

receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.

- (9) Foreign States and Their Political Subdivisions, Agencies, and Instrumentalities. – ~~Service upon~~ Upon a foreign state or a political subdivision, agency, or instrumentality thereof ~~shall be effected~~ thereof, pursuant to 28 U.S.C. § 1608."

SECTION 2. G.S. 1A-1, Rule 4(j2), reads as rewritten:

"(j2) Proof of service. – Proof of service of process shall be as follows:

- (1) Personal Service. – Before judgment by default may be had on personal service, proof of service must be provided in accordance with the requirements of ~~G.S. 1-75.10(1)~~. G.S. 1-75.10(a)(1).
- (2) Registered or Certified Mail, Signature Confirmation, or Designated Delivery Service. – Before judgment by default may be had on service by registered or certified mail, signature confirmation, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the serving party shall file an affidavit with the court showing proof of such service in accordance with the requirements of ~~G.S. 1-75.10(4), 1-75.10(5), or 1-75.10(6)~~, G.S. 1-75.10(a)(4), 1-75.10(a)(5), or 1-75.10(a)(6), as appropriate. This affidavit together with the return ~~or delivery receipt or receipt~~, copy of the proof of delivery provided by the United States Postal ~~Service~~ Service, or delivery receipt, signed by the person who received the mail or delivery if not the addressee raises a presumption that the person who received the mail or delivery and signed the receipt was an agent of the addressee authorized by appointment or by law to be served or to accept service of process or was a person of suitable age and discretion residing in the addressee's dwelling house or usual place of abode. In the event the presumption described in the preceding sentence is rebutted by proof that the person who received the receipt at the addressee's dwelling house or usual place of abode was not a person of suitable age and discretion residing therein, the statute of limitation may not be pleaded as a defense if the action was initially commenced within the period of limitation and service of process is completed within 60 days from the date the service is declared invalid. Service shall be complete on the day the summons and complaint are delivered to the address. As used in this subdivision, "delivery receipt" includes an electronic or facsimile receipt provided by a designated delivery service.
- (3) Publication. – Before judgment by default may be had on service by publication, the serving party shall file an affidavit with the court showing the circumstances warranting the use of service by publication, information, if any, regarding the location of the party served which was used in determining the area in which service by publication was printed and proof of service in accordance with ~~G.S. 1-75.10(2)~~. G.S. 1-75.10(a)(2)."

SECTION 3. G.S. 1A-1, Rule 4, is amended by adding a new subsection to

read:

"(j6) Service by electronic mailing not authorized. – Nothing in subsection (j) of this section authorizes the use of electronic mailing for service on the party to be served."

SECTION 4. G.S. 1-75.10 reads as rewritten:

"§ 1-75.10. Proof of service of summons, defendant appearing in action.

(a) Where the defendant appears in the action and challenges the service of the summons upon him, proof of the service of process shall be as follows:

...

(5) Service by Designated Delivery Service. – In the case of service by designated delivery service, by affidavit of the serving party ~~averring;averring~~ averring all of the following:

- a. That a copy of the summons and complaint was deposited with a designated delivery service as authorized under G.S. 1A-1, Rule 4, delivery receipt ~~requested;requested.~~
- b. That it was in fact received as evidenced by the attached delivery receipt or other evidence satisfactory to the court of delivery to the ~~addressee; and~~ addressee.
- c. That the ~~genuine-delivery~~ receipt or other evidence of delivery is attached.

....

(b) As used in subdivision (5) of subsection (a) of this section, "delivery receipt" includes a facsimile receipt and a printout of an electronic receipt."

SECTION 5. G.S. 1A-1, Rule 4(j1), reads as rewritten:

"(j1) Service by publication on party that cannot otherwise be served. – A party that cannot with due diligence be served by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) may be served by publication. Except in actions involving jurisdiction in rem or quasi in rem as provided in section (k), service of process by publication shall consist of publishing a notice of service of process by publication once a week for three successive weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and circulated in the area where the party to be served is believed by the serving party to be located, or if there is no reliable information concerning the location of the party then in a newspaper circulated in the county where the action is pending. If the party's post-office address is known or can with reasonable diligence be ascertained, there shall be mailed to the party at or immediately prior to the first publication a copy of the notice of service of process by publication. The mailing may be omitted if the post-office address cannot be ascertained with reasonable diligence. Upon completion of such service there shall be filed with the court an affidavit showing the publication and mailing in accordance with the requirements of ~~G.S. 1-75.10(2);G.S. 1-75.10(a)(2),~~ the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served.

The notice of service of process by publication shall (i) designate the court in which the action has been commenced and the title of the action, which title may be indicated sufficiently by the name of the first plaintiff and the first defendant; (ii) be directed to the defendant sought to be served; (iii) state either that a pleading seeking relief against the person to be served has been filed or has been required to be filed therein not later than a date specified in the notice; (iv) state the nature of the relief being sought; (v) require the defendant being so served to make defense to such pleading within 40 days after a date stated in the notice, exclusive of such date, which date so stated shall be the

date of the first publication of notice, or the date when the complaint is required to be filed, whichever is later, and notify the defendant that upon his failure to do so the party seeking service of process by publication will apply to the court for the relief sought; (vi) in cases of attachment, state the information required by G.S. 1-440.14; (vii) be subscribed by the party seeking service or his attorney and give the post-office address of such party or his attorney; and (viii) be substantially in the following form:

NOTICE OF SERVICE OF PROCESS BY PUBLICATION
STATE OF NORTH CAROLINA _____ COUNTY

In the _____ Court

[Title of action or special proceeding] [To Person to be served]:
Take notice that a pleading seeking relief against you (has been filed) (is required to be filed not later than _____, ____) in the above-entitled (action) (special proceeding). The nature of the relief being sought is as follows:
(State nature.)

You are required to make defense to such pleading not later than (_____, ____) and upon your failure to do so the party seeking service against you will apply to the court for the relief sought.

This, the _____ day of _____, ____

_____ (Attorney) (Party)
_____ (Address)"

SECTION 6. This act becomes effective October 1, 2008, and applies to receipts given on or after that date.

In the General Assembly read three times and ratified this the 26th day of June, 2008.

Became law upon approval of the Governor at 12:00 p.m. on the 1st day of July, 2008.

Session Law 2008-37

H.B. 2178

AN ACT TO AUTHORIZE NONPROFIT CORPORATIONS TO ALLOW CERTAIN
VOTES BY ELECTRONIC TRANSMISSION, AS RECOMMENDED BY THE
GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 55A-1-40 reads as rewritten:

"§ 55A-1-40. Chapter definitions.

In this Chapter unless otherwise specifically provided:

- ...
- (9) "Effective date of notice" is defined in G.S. 55A-1-41.
- (9a) 'Electronic' has the same meaning as in G.S. 66-312.
- (9b) 'Electronic record' has the same meaning as in G.S. 66-312.
- (9c) 'Electronic signature' has the same meaning as in G.S. 66-312.
- (10) "Entity" includes:
 - a. Any domestic or foreign:
 - 1. Corporation; business corporation; professional corporation;

2. Limited liability company;
 3. Profit and nonprofit unincorporated association, chapter or other organizational unit; and
 4. Business trust, estate, partnership, trust;
- b. Two or more persons having a joint or common economic interest; and
 - c. The United States, and any state and foreign government.

...

- (26) "Vote" includes authorization by written ballot and written ~~consent~~ consent, including electronic ballot and electronic consent."

SECTION 2. G.S. 55A-1-41 reads as rewritten:

"§ 55A-1-41. Notice.

(a) Notice under this Chapter shall be in writing unless oral notice is authorized in the corporation's articles of incorporation or bylaws and written notice is not specifically required by this Chapter.

(b) Notice may be communicated in person; by ~~telephone, telegraph, teletype, or other form of wire or wireless communication, or by facsimile transmission;~~ electronic means; or by mail or private carrier. If these forms of personal notice are impracticable as to one or more persons, notice may be communicated to such persons by publishing notice in a newspaper, or by radio, television, or other form of public broadcast communication, in the county where the corporation has its principal place of business in the State, or if it has no principal place of business in the State, the county where it has its registered office.

(c) Written notice by a domestic or foreign corporation to its member is effective when deposited in the United States mail with postage thereon prepaid and correctly addressed to the member's address shown in the corporation's current record of members. To the extent the corporation pursuant to G.S. 55A-1-70 and the member have agreed, notice by a domestic corporation to its member in the form of an electronic record sent by electronic means is effective when it is sent as provided in G.S. 66-325. A member may terminate any such agreement at any time on a prospective basis effective upon written notice of termination to the corporation or upon such later date as may be specified in the notice.

(d) Written notice to a domestic or foreign corporation (authorized to conduct affairs in this State) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its articles of incorporation, the Designation of Principal Office Address form, or any Corporation's Statement of Change of Principal Office Address form filed with the Secretary of State.

(e) Except as provided in subsection (c) of this section, written notice is effective at the earliest of the following:

- (1) When received;
- (2) Five days after its deposit in the United States mail, as evidenced by the postmark or otherwise, if mailed with at least first-class postage thereon prepaid and correctly addressed;
- (3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee;
- (4) If mailed with less than first-class postage, 30 days after its deposit in the United States mail, as evidenced by the postmark or otherwise, if mailed with postage thereon prepaid and correctly addressed;

- (5) When delivered to the member's address shown in the corporation's current list of members.

In the case of notice in the form of an electronic record sent by electronic means, the time of receipt shall be determined as provided in G.S. 66-325.

(f) Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members. In the case of members who are residents of the same household and who have the same address, the corporation's bylaws may provide that a single notice may be given to such members jointly.

(g) Oral notice is effective when actually communicated to the person entitled to oral notice.

(h) If this Chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this Chapter, those requirements govern.

(i) Written notice need not be provided in a separate document and may be included as part of a newsletter, magazine, or other publication regularly sent to members if conspicuously identified as a notice."

SECTION 3. Article 1 of Chapter 55A of the General Statutes is amended by adding a new Part to read:

"Part 7. Miscellaneous.

"§ 55A-1-70. Electronic transactions.

For purposes of applying Article 40 of Chapter 66 of the General Statutes to transactions under this Chapter, a corporation may agree to conduct a transaction by electronic means through provision in its articles of incorporation or bylaws or by action of its board of directors."

SECTION 4. G.S. 55A-7-04 reads as rewritten:

"§ 55A-7-04. Action by written consent.

(a) Action required or permitted by this Chapter to be taken at a meeting of members may be taken without a meeting if the action is taken by all members entitled to vote on the action. The action shall be evidenced by one or more written consents describing the action taken, signed before or after such action by all members entitled to vote thereon, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. To the extent the corporation has agreed pursuant to G.S. 55A-1-70, a member's consent to action taken without a meeting may be in electronic form and delivered by electronic means.

(b) If not otherwise determined under G.S. 55A-7-03 or G.S. 55A-7-07, the record date for determining members entitled to take action without a meeting is the date the first member signs the consent under subsection (a) of this section.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document."

SECTION 5. G.S. 55A-7-08 reads as rewritten:

"§ 55A-7-08. Action by written ballot.

(a) Unless prohibited or limited by the articles of incorporation or bylaws and without regard to the requirements of G.S. 55A-7-04, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter. Any requirement that any vote of the members be made by written ballot may be satisfied by a ballot submitted by electronic transmission, including electronic mail,

provided that such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the member or the member's proxy.

(b) A written ballot shall:

- (1) Set forth each proposed action; and
- (2) Provide an opportunity to vote for or against each proposed action.

(c) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the same total number of votes were cast.

(d) All solicitations for votes by written ballot shall indicate the time by which a ballot shall be received by the corporation in order to be counted.

(e) Except as otherwise provided in the articles of incorporation or bylaws, a written ballot shall not be revoked."

SECTION 6. G.S. 55A-7-24 reads as rewritten:

"§ **55A-7-24. Proxies.**

(a) Unless the articles of incorporation or bylaws prohibit or limit proxy voting, a member may vote in person or by proxy. A member may appoint one or more proxies to vote or otherwise act for ~~him~~ the member by signing an appointment form, either personally or by ~~his~~ the member's attorney-in-fact. ~~A photocopy, telegram, cablegram, facsimile transmission, or equivalent reproduction of a writing appointing one or more proxies, Without limiting G.S. 55A-1-70, an appointment in the form of an electronic record that bears the member's electronic signature and that may be directly reproduced in paper form by an automated process shall be deemed a valid appointment form within the meaning of this section. In addition, if and to the extent permitted by the nonprofit corporation, a member may appoint one or more proxies (i) by an electronic mail message or other form of electronic, wire, or wireless communication that provides a written statement appearing to have been sent by the member, or (ii) by any kind of electronic or telephonic transmission, even if not accompanied by written communication, under circumstances or together with information from which the nonprofit corporation can reasonably assume that the appointment was made or authorized by the member.~~

(b) An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for 11 months unless a different period is expressly provided in the appointment form.

(c) An appointment of a proxy is revocable by the member unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. An appointment made irrevocable under this subsection shall be revocable when the interest with which it is coupled is extinguished. A transferee for value of an interest subject to an irrevocable appointment may revoke the appointment if he did not have actual knowledge of its irrevocability.

(d) The death or incapacity of the member appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

(e) A revocable appointment of a proxy is revoked by the person appointing the proxy:

- (1) Attending any meeting and voting in person; or

- (2) Signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.

(f) Subject to G.S. 55A-7-27 and to any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment."

SECTION 7. G.S. 55A-8-21 reads as rewritten:

"§ 55A-8-21. **Action without meeting.**

(a) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this Chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one or more written consents signed by each director before or after such action, describing the action taken, and included in the minutes or filed with the corporate records reflecting the action taken. To the extent the corporation has agreed pursuant to G.S. 55A-1-70, a director's consent to action taken without meeting may be in electronic form and delivered by electronic means.

(b) Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document."

SECTION 8. This act becomes effective October 1, 2008.

In the General Assembly read three times and ratified this the 26th day of June, 2008.

Became law upon approval of the Governor at 12:03 p.m. on the 1st day of July, 2008.

Session Law 2008-38

H.B. 1679

AN ACT ALLOWING JOINT MUNICIPAL ASSISTANCE AGENCIES TO MAKE AND EXECUTE CONTRACTS FOR PERIODS GREATER THAN THREE YEARS TO ACHIEVE ECONOMY, ADEQUACY, AND RELIABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159B-44(13) reads as rewritten:

"(13) To make and execute contracts ~~for a period not exceeding three years~~ and other instruments necessary or convenient in the exercise of the powers and functions of the joint municipal assistance agency, including contracts with municipalities, joint agencies, persons, firms, corporations and others, provided, however, that such contracts shall not unreasonably preclude the municipality or joint agency from contracting with other parties in order to achieve economy, adequacy and reliability in the operation of their electric systems;"

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

In the General Assembly read three times and ratified this the 26th day of June, 2008.

Became law upon approval of the Governor at 12:05 p.m. on the 1st day of July, 2008.

Session Law 2008-39

S.B. 1654

AN ACT TO REMOVE A DESCRIBED AREA FROM THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY AND THE TOWN OF CAMERON.

The General Assembly of North Carolina enacts:

SECTION 1. The following described area is removed from the corporate limits of the City of Mount Airy:

All of that parcel identified in the Surry County Tax Office as Parcel Number 5021-06-38-9219 EXCEPT the two tracts described below which will be in the corporate limits:

Tract 1.

Beginning at a point common with Parcel Number 5021-06-27-9588, Parcel Number 5021-06-37-5726, and Parcel Number 5021-06-38-9219; Thence North 54 degrees 40 minutes West 276 feet to a point, Thence North 26 degrees 14 minutes East 25 feet to a point, Thence North 72 degrees 16 minutes East 127 feet to a point, Thence South 82 degrees 06 minutes East 23 feet to a point, Thence North 85 degrees 41 minutes East 33 feet to a point, Thence North 51 degrees 38 minutes East 38 feet to a point, Thence South 63 degrees 11 minutes East 91 feet to a point, Thence South 20 degrees 09 minutes West 216 feet to the point of beginning. Said tract containing 38,078 square feet and having buildings located upon it.

Tract 2.

Beginning at a point in the eastern margin of the right-of-way for Greenhill Road approximately 357 feet North of the intersection with Montclair Drive. Thence North 64 degrees 22 minutes East 265 feet to a point, Thence South 26 degrees 22 minutes East 327 feet to a point, Thence South 48 degrees 58 minutes West 106 feet to a point, Thence South 60 degrees 50 minutes West 97 feet to a point, Thence North 26 degrees 08 minutes West 200 feet to a point, Thence South 67 degrees 58 minutes West 68 feet to a point, Thence North 25 degrees 49 minutes West 157 feet to the point of beginning. Said tract containing 80,687 square feet and having a building, swimming pool and other improvements located upon it.

SECTION 2. The following described area is removed from the corporate limits of the Town of Cameron:

Beginning at an existing iron pipe; said pipe being in the northern line of the tract being described hereon; said beginning iron pipe also being located S 09 09' 48" E 1001.08 feet from a PK Nail located in the centerline intersection of NC Hwy. #24-27 and Dalrymple Road (S.R. #1823); said beginning pipe also a common corner of Town of Cameron Well Site recorded in Deed Book 1883 at Page 528 and shown on a map recorded in Plat Cabinet 4 at Slide 125 in the Moore County Registry and Tim Kammerer's 19.48 acre tract recorded in Deed Book 3279 at Page 243; running thence from the beginning S 69 33' 23"E 1528.92 feet to an iron pipe; thence S 66 15' 04" E 724.58 feet to an iron pipe; thence S 30 18' 15" W 1027.79 feet to an iron pipe; thence N 33 11' 27" W 736.49 feet to an iron pipe; thence N 88 23' 04" W 958.89 feet to an iron pipe; thence N 66 41' 55" W 927.66 feet to an iron pipe at the edge of the pavement of Dalrymple Road; thence N 35 04' 58" E 489.89 feet to an iron rod; thence S 49 15' 49" E 77.04 feet to an iron rod; thence N 66 52' 57" E 307.69 feet to an iron rod; thence N 35 44' 01" E 200.00 feet to an iron rod; thence N 56 15' 59" W 117.29 feet to the beginning. Containing 44.27 acres more or less and being the property now owned by Timothy and Angela Kammerer as recorded in Deed Book 3279 at Page 240 and shown

on a map recorded in Plat Cabinet 11 at Slide 131 in the Moore County Register of Deeds Office.

SECTION 3. Section 1 of this act becomes effective May 31, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-40

S.B. 1895

AN ACT AUTHORIZING JOHNSTON COUNTY TO RENOVATE THE COURTHOUSE WITHOUT COMPLYING WITH SPECIFIED PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. The County of Johnston may contract for the design and construction for exterior renovations to the county courthouse and for interior work incidental thereto without being subject to the requirements of G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32.

The authorization includes, if deemed appropriate by the County Board of Commissioners, the use of the single-prime contractor method of design and construction or a request for proposals and negotiation as an alternative design and construction method.

SECTION 2. The County of Johnston shall request proposals from and interview at least three design-build teams that have submitted proposals. If three proposals are not received and the project has been publicly advertised at least once in a newspaper of general circulation in the county and a minimum of 30 days has elapsed since the advertisement has appeared, then the County may proceed with the proposals received. The County shall award the contract to the best qualified contractor, taking into account the time of completion of the project, the capital and operation and maintenance cost of the project, the technical merits of the proposal including, but not limited to, reliability and protection of the environment, and any other factors and information set forth in the request for proposals that the County determines to have a material bearing on the ability to evaluate any proposal.

SECTION 3. This act is effective when it becomes law and applies only to the project described in Section 1 of this act.

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-41

S.B. 2126

AN ACT RELATING TO ZONING ORDINANCE VIOLATIONS IN THE CITY OF WINSTON-SALEM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 24 of Chapter 677 of the 1947 Session Laws reads as rewritten:

"SEC. 24. Violations—Penalty. Any person, firm or corporation who may violate any of the provisions of the zoning ordinance of the City of Winston-Salem, North Carolina, within the one mile area surrounding the corporate limits of the City of Winston-Salem, or within the three mile area surrounding such city limits if the board of county commissioners shall have approved such zoning provisions, shall, upon conviction, be fined ~~fifty dollars (\$50.00)~~ not more than five hundred dollars (\$500) or imprisoned not more than thirty (30) days; any person, firm or corporation who shall continue to violate or shall permit any land, structure or building to continue to exist or to be used in violation of the zoning ordinance of the City of Winston-Salem, pursuant to the authority given by this Act, or who shall cause, permit or continue to exist any occupancy or use of any land, structure or building in violation of any of said ordinances, resolutions, regulations or restrictions for as long a ~~period as ten~~ as five days after notice of such violation, issued by the Building Inspector or Administrative Officer of the City of Winston-Salem, or his designee, and served upon him by any police officer of the City of Winston-Salem or by any police officer of Forsyth County, or by personal service, by registered or certified mail in conjunction with regular mail and posting, shall be guilty of a separate offense for each day he permits such violation to continue after the expiration of ~~ten~~ five days from such notice, and shall be punished as above set forth. ~~The Judge of the Municipal Court of the City of Winston-Salem shall have the power to lessen the fine, penalty or term of imprisonment imposed for any such violation.~~ If the regular mail is not returned within 10 days of its mailing, and the certified or registered mail is returned refused or unclaimed, service by regular mail shall be deemed sufficient. If regular mail is used, a notice of the violation shall be posted in a conspicuous place on the premises in violation."

SECTION 2. This act applies to the City of Winston-Salem only.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-42

S.B. 2131

AN ACT TO CHANGE THE NAME OF THE CRAVEN COUNTY REGIONAL AIRPORT AUTHORITY, TO CHANGE THE NAME OF THE CRAVEN COUNTY REGIONAL AIRPORT, AND TO ADD NONVOTING MEMBERS TO THE AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 and 7 of Chapter 1197 of the Session Laws of 1979, as amended by Section 1.1 of S.L. 1989-1046, is amended by deleting "Craven County Regional Airport Authority" and substituting "Coastal Carolina Regional Airport Authority."

SECTION 2. Chapter 1197 of the Session Laws of 1979, as amended by Chapter 838, Session Laws of 1985 and Section 1.2 of S.L. 1989-1046, is amended by deleting "Craven County Regional Airport," wherever that phrase appears, and substituting "Coastal Carolina Regional Airport."

SECTION 3. Section 2(a) of Chapter 1197 of the Session Laws of 1979, as amended by Chapter 838, Session Laws of 1985 and Section 1(a) of S.L. 2005-14, reads as rewritten:

"(a) The Airport Authority shall consist of eight voting members, all of whom shall be residents of Craven County. The Commanding ~~General Officer~~ of the United States Marine Corps Air Station, Cherry Point, North Carolina, or the ~~General's Commanding Officer's~~ designee may serve as a nonvoting ~~Honorary Member~~ member of the Authority. Further, the Board of Commissioners of Jones County may appoint a nonvoting member to serve on the Airport Authority, the Board of Commissioners of Pamlico County may appoint a nonvoting member to serve on the Airport Authority, and the Board of Commissioners of Carteret County may appoint a nonvoting member to serve on the Airport Authority."

SECTION 4. Section 6(a) of Chapter 1197 of the Session Laws of 1979 reads as rewritten:

"(a) The Airport Authority shall appoint from its voting members a Chairman, Vice Chairman, and other officers as it may deem necessary for the orderly conduct of its business. A majority of the voting members shall control the decisions of the Airport Authority, and each voting member of the the Airport Authority, including the Chairman shall have one vote. A majority of the duly appointed and qualified voting members of the Airport Authority shall constitute a quorum."

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-43

H.B. 2092

AN ACT AMENDING THE CHARTER OF THE TOWN OF KERNERSVILLE TO CHANGE THE NAME OF THE TOWN'S FIRE DEPARTMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 17 of the Charter of the Town of Kernersville, being Chapter 381 of the 1989 Session Laws, as amended, reads as rewritten:

"Sec. 17. Kernersville Fire ~~Department~~ Fire-Rescue Department Chief.

The Town Manager shall appoint the Chief of the Kernersville Fire Rescue Department who shall be the commanding officer and administrator of the said department."

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-44

H.B. 2123

AN ACT TO ESTABLISH A SEASON FOR THE TRAPPING OF FOXES AND COYOTES IN ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes and coyotes with rubber cleat traps from June 1 through February 28 of each year.

SECTION 2. The North Carolina Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act.

SECTION 3. This act applies only to Alamance County.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-45

H.B. 2218

AN ACT TO MODIFY THE OCCUPANCY TAX AUTHORIZATION FOR THE TOWN OF AHOSKIE AND TO AMEND THE MEMBERSHIP OF THE GRANVILLE COUNTY TOURISM DEVELOPMENT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.1(c) of S.L. 2006-164 reads as rewritten:

"**SECTION 2.1.(c)** Distribution and Use of Tax Revenue. – The Town of Ahoskie shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Town of Ahoskie Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this part to promote travel and tourism in the ~~town~~area and shall use the remainder for tourism-related expenditures.

The following definitions apply in this part:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures."

SECTION 2.(a) Section 1.1(a) of S.L. 2000-103 reads as rewritten:

"(a) Appointment and Membership.

The Board of County 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 Authority shall be composed of ~~five~~seven members who shall serve for staggered three-year terms. The members shall be appointed as follows:

- (1) ~~three~~Four appointed by the Granville County Board of ~~Commissioners,~~Commissioners, two of whom must be owners or managers of a Granville County hotel or motel and two of whom must be currently active in the promotion of travel and tourism in the county.

- (2) ~~one~~ One appointed by the Oxford City Council, ~~and Council.~~
- (3) ~~one~~ One appointed by the Creedmoor City Council. ~~One of the three members appointed by the Granville County Board of Commissioners must be an owner or manager of a Granville County hotel or motel.~~
- (4) One appointed by the Butner Town Council.

The remaining members appointed under subdivisions (2), (3), and (4) of this subsection must be individuals who are currently active in the promotion of travel and tourism in the county. Vacancies shall be filled in the same manner as original appointments, and members appointed to fill vacancies shall serve for the remainder of the unexpired term. The resolution shall determine the compensation, if any, to be paid to the members of the Authority.

At the first meeting of each calendar year, the membership of the Authority shall elect one member to serve as chair until the first meeting of the following year. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Granville County shall be the ex officio finance officer of the Authority."

SECTION 2.(b) Section 2 of S.L. 2000-103 reads as rewritten:

"Section 2. To achieve the staggered terms required on the Granville County Tourism Development Authority, as provided in ~~Section 1~~ Section 1.1 of this act, the initial terms of the members of the Authority shall be as follows: The initial term of the ~~member~~ members ~~who is an owner or manager~~ are owners or managers of a hotel or motel shall be three years. The Granville County Board of Commissioners must designate one of its remaining appointees to serve an initial term of two years and the other to serve an initial term of one year. The member appointed by the Butner Town Council shall serve an initial term of two years. The remaining initial members shall serve terms of three years each. Thereafter, all terms shall be three years."

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-46

H.B. 2347

AN ACT TO AUTHORIZE THE CITY OF WINSTON-SALEM TO DISPOSE OF PROPERTY AND LIMIT THE USES THAT MAY BE MADE OF THE PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1.1 of Chapter 224 of the 1983 Session Laws reads as rewritten:

"Sec. 1.1. This act applies to McDowell County and the City of Winston-Salem County only."

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-47

H.B. 2402

AN ACT SUBSTITUTING THE WORD "NOTICE" FOR "COMPLAINT OR ORDER" IN THE LAW THAT AUTHORIZES THE CITY OF WINSTON-SALEM TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S GARBAGE AND TRASH ORDINANCE AND THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2003-120, as amended by S.L. 2007-319, reads as rewritten:

"**SECTION 1.** A municipality may notify a chronic violator of the municipality's garbage and trash ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality may, without further notice in the calendar year in which the notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the violator's property in accordance with G.S. 160A-193. The initial annual notice shall be served by registered or certified mail. When service is made by registered or certified mail, a copy of the ~~complaint or order~~notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. Under this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave a notice of violation at least three times under any provision of the garbage and trash ordinance."

SECTION 2. Section 1 of S.L. 1999-58, as amended by S.L. 2003-120 and S.L. 2007-319, reads as rewritten:

"**SECTION 1.** A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. When service is made by registered or certified mail, a copy of the ~~complaint or order~~notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave a notice of violation at least three times under any provision of the overgrown vegetation ordinance."

SECTION 3. This act applies to the City of Winston-Salem only.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-48

H.B. 2444

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO TO CLARIFY THE INITIATIVE, REFERENDUM, AND RECALL PETITION PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 2.71 through 2.76 of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, as amended by Chapter 55 of the Session Laws of 1963, Chapter 896 of the 1989 Session Laws, and Chapter 4 of the 1991 Session Laws, read as rewritten:

"Sec. 2.71. **Powers of Initiative, Referendum and Recall.**

(a)

- (1) The voters of the city shall have power, except as provided in paragraph (2) of this subsection, to propose ordinances to the city council. If the council rejects an ordinance proposed hereunder or passes it with amendment, the voters shall have power to approve or reject the proposed or amended ordinance at the polls. These powers comprise the initiative power.
- (2) The initiative shall not extend to the proposing of: (i) any part or all of the annual budget; (ii) or any ordinance making or repealing any appropriation of money, fixing the salaries of city officers or employees, or authorizing or repealing the levying of taxes.
- (3) Voters seeking to propose an ordinance subject to initiative shall proceed by way of initiative petition addressed to the council and containing the full text of the proposed ordinance. ~~Any initiative petition must be filed with the city clerk and must be signed by qualified voters of the city equal in number to at least 25% of the qualified voters of the city who voted at the last preceding election for city council members.~~An initiative petition must be registered with the Guilford County Board of Elections, as required by G.S. 163-218, before it is circulated for signatures. The valid signatures required on the petition must equal twenty-five percent (25%), in number, of the number of persons voting at the last preceding citywide election for City Council members occurring before the registration of the initiative petition. It is not necessary that the signers of the petition have voted in the last election. The petitioner's committee shall have one year from the date of registration with the Board of Elections to file the initiative petition with the City Clerk.

(b)

- (1) The voters of the city shall have power, except as provided in paragraph (2) of this subsection, to require reconsideration by the council of any adopted ordinance, including any ordinance initiated under subsection (a) of this Section and adopted by the council. If the council fails to repeal an ordinance which it has been required to reconsider, the voters shall have power to approve or reject that ordinance at the polls. These powers comprise the referendum power.
- (2) The referendum power shall not extend to (i) any part or all of the annual budget or the property tax levied therein; (ii) to any ordinance

making or repealing any appropriation of money or fixing the salary of any officer or employee; or (iii) to any repealing ordinance adopted by the council in compliance with a referendum petition.

- (3) Voters seeking a referendum on any ordinance shall proceed by way of a referendum petition addressed to the council, identifying the ordinance concerned and requesting that it be either amended, repealed, or referred to the voters of the city. Any referendum petition must be ~~filed with the city clerk~~ registered with the Guilford County Board of Elections, as required by G.S. 163-218, before it is circulated for signatures. Such registration must be within 30 days after adoption by the council of the ordinance concerned and must be signed by qualified voters of the city equal in number to at least 25% of the qualified voters of the city who voted at the last preceding election for city council members. The valid signatures required on the petition must equal twenty-five percent (25%), in number, of the number of persons voting at the last preceding citywide election for City Council Members occurring before the date of adoption of the ordinance referred. It is not necessary that the signers of the petition have voted in the last election. The petitioner's committee shall have one year from the date of registration with the Board of Elections to file the referendum petition with the City Clerk.

(c)

- (1) The voters of the city shall have the power, which shall be known as the recall power, to remove from office any member of the ~~city council~~ city council, including the Mayor.
- (2) Voters seeking the recall of any member of the council shall proceed by way of a recall petition addressed to the council identifying the council member concerned, requesting his/her removal from office and stating the grounds alleged for his/her removal. The grounds for recall must be for cause, misfeasance, malfeasance, nonfeasance, or a violation of the oath of office. A recall petition must be registered with the Guilford County Board of Elections before it is circulated for signatures; however, no recall petition may be registered within six months before a general election involving the members named in the petition. With respect to the Mayor or any council member elected at large, any recall petition must be filed with the city clerk within one year after registration and must be signed by qualified voters of the city equal in number to at least 25% of the qualified voters of the city who voted at the last preceding election of city council members. the valid signatures required on the petition must equal twenty-five percent (25%), in number, of the number of persons voting at the last preceding citywide election for Mayor or city council members occurring before the registration of the recall petition. It is not necessary that the signers of the petition have voted in the last election. With respect to any city council member elected from a district, any recall petition must be filed with the city clerk within one year after registration and must be signed by qualified voters of that council member's district equal in number to at least 25% of the qualified voters of such district who voted at the last preceding election for its

~~city council member.~~ the valid signatures required on the petition must equal twenty-five percent (25%), in number, of the number of persons voting at the last preceding district election occurring before the registration of the recall petition. It is not necessary that the signers of the petition have voted in the last district election.

(d) ~~No initiative petition proposing an ordinance that addresses essentially the same issue as, or requiring an amendment to, an ordinance that was the subject of a referendum election may be filed within one year after the referendum election.~~

"Sec. 2.72. Petitioners' Committee.

In each initiative, referendum, or recall petition there shall be named a petitioners' committee representing all the petitioners and composed of five members who shall be qualified voters of the city and signers of the petition concerned. The petitioners' committee shall be responsible for registration and circulation of the petition and for its assembling and filing in proper form. The committee may also amend or withdraw its petition as provided in this Article.

"Sec. 2.73. Initiative, Referendum and Recall Petitions: Form and Sufficiency.

(a) Initiative, referendum and recall petitions shall be governed by the rules regarding form and sufficiency set out in this Section, as well as by such other rules regarding form and sufficiency as the city council may impose by ordinance consistent with the provisions and with the spirit and purpose of this charter.

(b) The signatures to a petition shall be executed in ink or indelible pencil and need not all be affixed to one paper, but all papers of a petition shall be of uniform size and style and shall be assembled as one instrument for filing with the city clerk. Each signature shall be followed by the address of the signer. Petitions or petition papers which reasonably comply with these requirements shall be accepted by the clerk without delay upon presentation and their filing shall be completed by his acceptance. Noncomplying petitions or papers may be rejected by the clerk until they are brought into reasonable compliance.

(c) The clerk shall not accept any petition until it indicates (1) by name and address, the five petitioners who constitute the petitioners' committee for that petition and (2) the address to which all notices for the petitioners' committee are to be sent.

(d) Any petition shall be certified or determined insufficient which: (1) is validly signed by less than the required number of qualified voters of the city, (2) proposes, or requests repeal of, an ordinance not subject to the power under which the petitioners are proceeding, (3) if a ~~referendum~~ petition, is not registered or filed within the time allowed, or (4) if a recall petition, seeks the removal of an official not subject to recall hereunder.

(e) No signature on a petition paper shall be counted in support of the petition involved if that paper (1) being part of an initiative petition, has not contained or had attached to it throughout its circulation the full text of the proposed ordinance, (2) being part of a referendum petition, has not contained throughout its circulation a clear, concise designation and description of the ordinance concerned, or (3) being part of a recall petition has not contained or had attached to it throughout its circulation a copy of the recall petition identifying the council member concerned and stating the grounds alleged for his removal.

(f) No signature on a petition paper shall be counted in support of the petition involved if that paper at the time of filing, does not have attached to it an affidavit, executed by the circulator of that paper, to the effect: (1) that he personally circulated the paper; (2) that each signature on the paper was affixed in his presence; (3) that he

believes each signature to be the genuine signature of the person whose name it purports to be; (4) if an initiative petition is concerned, that the full text of the proposed measure was attached to or contained in the accompanying paper throughout its circulation, and that each signer of the accompanying paper had an opportunity before signing to read the full text of the ordinance attached; and (5) if a referendum petition is concerned, that each signer of the accompanying paper had an opportunity before signing to read the designation and description of the ordinance in question; and (6) if a recall petition is concerned, that a copy of the recall petition was attached to or contained in accompanying paper throughout its circulation, and that each signer of the accompanying paper had an opportunity before signing to read the full text.

(g) Upon receipt of a petition that complies with the requirements of subsections (b) and (c) of this Section, the clerk shall examine the petition to determine whether, on its face, it is insufficient under paragraphs (1), (2) or (3) of subsection (d). If he finds the petition insufficient on its face for any of these reasons, he shall so certify to the city council at the next regular council meeting occurring not sooner than five days after the filing of the petition, and the determination shall be subject to review in the manner provided in subsection (e) of Section 2.75. If he does not find the petition insufficient for these reasons, the clerk shall determine which signatures on the petition papers may be counted in support of the petition under subsections (e) and (f). He shall then clearly mark the signatures that may be so counted. Within ten days after the filing of the petition he shall deliver the petition papers with signatures marked to the Guilford County Board of Elections for a checking of the marked signatures against the registration books. The Board of Elections shall complete its check within 15 days after receipt of the petition papers; except that the said board shall not be obligated to conduct a check in any 30-day period immediately preceding, or in any 10-day period immediately following, a county-wide or city-wide election. Upon completion of its check, the board of elections shall forthwith certify to the city clerk: (1) The total number of registered voters of the city or the municipal electoral district, whichever is applicable, at the time of the ~~most recent~~ relevant election of members of the city council; and (2) the number of voters registered in the city or in the municipal electoral district, if applicable, whose signatures, marked by the clerk, appear on the petition papers that the board found it necessary to examine. If it was found unnecessary to check all names on the petition papers, this fact shall be indicated on the certificate. The petition papers shall be returned to the city clerk by the Board of Elections together with its certificate.

(h) A petition may be delivered to the city clerk at each 90-day interval after it is registered to have the accumulated signatures verified as to validity. The clerk shall determine which signatures on the petition papers may be counted in support of the petition under subsections (e) and (f) of this section. The clerk shall then clearly mark the signatures that may be so counted. Within five working days after the delivery of the petition, the clerk shall deliver the petition papers with signatures marked to the Guilford County Board of Elections for a checking of the marked signatures against the registration books. The Board of Elections shall complete its check within 10 working days after receipt of the petition papers; except that the said board shall not be obligated to conduct a check in any 30-day period immediately preceding, or in any 10-day period immediately following, a countywide or citywide election. Upon completion of its check, the Board of Elections shall forthwith certify to the city clerk the number of voters registered in the city or in the municipal electoral district, if applicable, whose signatures, marked by the clerk, appear on the petition papers that the board examined.

The petition papers shall be returned to the city clerk by the Board of Elections together with its certificate. The clerk shall then return the unfiled petition to the petitioner's committee for further circulation within three working days. This delivery to the clerk shall not be deemed as a filing unless so designated by the petitioner's committee. Once filed, a petition may not be retrieved by the committee but may only be supplemented as provided in Section 2.75 of this Charter.

"Sec. 2.74. Referendum Petitions: Suspension of Ordinance after Filing.

When, within the time allowed, a referendum petition is filed with the city clerk, the ordinance to which that petition is directed shall immediately be and shall remain suspended from taking effect. This suspension shall terminate when, in accordance with this Article: (1) a final determination is made that the petition concerned is insufficient, or (2) the petitioners' committee withdraws the petition, or (3) the council reconsiders the ordinance and repeals it without modification. Any action taken pursuant to the respective ordinance while it was in effect shall remain valid.

"Sec. 2.75. Initiative, Referendum and Recall Petitions; Procedure after Filing.

(a) Within five days after the return of the petition papers by the county board of elections, the city clerk shall complete a certificate as to whether the petition is sufficient. If the clerk certifies a petition insufficient, his certificate shall show the particulars wherein the petition is defective. As soon as he has completed his certificate, the clerk shall notify the committee of petitions of the contents of the certificate. If a petition is certified sufficient, the clerk shall present his certificate to the city council at its next meeting and that certificate shall be a final determination as to the sufficiency of the petition. If a petition certified sufficient is a recall petition, the clerk shall also give written notice of the action taken to the council member whose removal is sought. If a petition is certified insufficient under Section 2.73 (d) (1), a majority of the committee of petitioners may elect to amend the petition; but if a majority does not so elect to amend the petition, the clerk shall present his certificate to the council at its next meeting and that certificate shall be a final determination as to the sufficiency of the petition.

(b) If a majority of the committee of petitioners elects to amend the petition, then within ten days after notice of the contents of the clerk's certificate, the committee may file, for purposes of amendment, a supplementary petition upon additional papers. The supplementary petition shall be governed by the same requirements as an original petition with respect to such matters as uniformity and assembly of papers, listing of the petitioners' committee, text or designation and description of measures, circulators' affidavits, the writing and counting but not the number of signatures; and the clerk shall proceed as in the case of an original petition. Within two days after receipt of a supplementary petition complying with the requirements of subsections (b) and (c) of Section 2.73, the clerk shall deliver the supplementary petition papers to the county board of elections for a checking of the marked signatures against the registration books. The Board of Elections shall complete its check within five days after receipt of the said petition papers; except that the said board shall not be obligated to conduct a check in any 30-day period immediately preceding, or in any 10-day period immediately following a countywide or city-wide election. Upon completion of this check, the Board of Elections shall forthwith certify to the city clerk the number of voters registered in the city whose signatures, marked by the clerk, appear on the supplementary petition papers that the board found it necessary to examine. If it was found unnecessary to check all names on the supplementary papers, this fact shall be

indicated in the certificate. The supplementary petition papers shall be returned to the city clerk by the Board of Elections together with the certificate.

(c) Within two days after the return of the supplementary petition papers by the Board of Elections, the clerk shall complete a second certificate as to whether the original petition, as amended by the supplementary petition is sufficient. If the clerk certifies the amended petition insufficient, his second certificate shall show the particulars wherein the petition is still defective. As soon as he has completed his second certificate, the clerk shall notify the petitioners' committee of its contents and shall present that certificate to the council at its next meeting, and that certificate shall be a final determination as to the sufficiency of the petition.

(d) If a petition has been certified insufficient and there is no election to amend it, or if an amended petition is certified insufficient, the clerk shall present his latest certificate on the petition to the council at its next meeting.

(e) If, in any one of the ways provided in this Section, a final determination has been made that a petition is insufficient, that determination shall be subject to judicial review, but no further action shall be taken on the petition unless the reviewing court directs otherwise. Such a final determination, even if sustained upon review, shall not prejudice the filing of a new petition for the same purposes.

"Sec. 2.76. Consideration by the City Council and Submission to the Voters.

(a) When the city council has been presented with, or has, an initiative or referendum petition which has been finally determined sufficient in accordance with the preceding Sections of this Article, it shall proceed at once to hold a public hearing thereon and consider that petition. If an initiative petition is concerned, the ordinance it proposes shall at once be introduced and shall undergo all other procedures required for ordinances of the same kind; however, not later than 30 days after the date on which the petition proposing the ordinance is finally determined to be sufficient, the council shall complete its consideration of the proposed ordinance and shall adopt it with or without amendment or reject it. If a referendum petition is concerned, the ordinance to which that petition is directed shall be reconsidered by the council and, not later than 30 days after the date on which the referendum petition was finally determined sufficient, the council shall repeal or sustain the ordinance.

(b) If the council fails to adopt, or adopts with amendment, a proposed initiative ordinance, or if the council fails to repeal an ordinance reconsidered pursuant to a referendum petition, it shall submit the originally proposed initiative ordinance or refer the reconsidered ordinance concerned to the voters of the city.

(c) When the council has been presented with, or has, a recall petition which has been finally determined sufficient in accordance with the preceding Sections of this subchapter, it shall thereupon fix a day for holding a recall election unless, prior to council consideration of the matter, the council member whose removal is sought has resigned and his resignation has been accepted by the council. Any recall election for a council member from an electoral district shall be held within that district only.

(d) An initiative election shall be held at the next regularly scheduled primary or general election in Guilford County for state, county or municipal officials following 90 days after the petition has been finally determined to be sufficient. A referendum or recall election shall be held no sooner than 90 days and no later than 120 days after the petition has been finally determined to be ~~sufficient~~sufficient, but no recall election shall be held within the first six months or the last six months of the term of office of the member."

SECTION 2. Article 2 of Subchapter D of Chapter II of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, is amended by adding a new section to read:

"Sec. 2.80. **Publication of ordinances; repeal and amendment; conflicts.**

No initiative petition proposing an ordinance that addresses essentially the same issue as, or requiring an amendment to, an ordinance that was the subject of a referendum election may be filed within one year after the referendum election."

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-49

H.B. 2451

AN ACT TO AMEND THE SUPPLEMENTAL RETIREMENT FUND FOR VOLUNTEER FIREMEN IN THE TOWN OF ELKIN AND TO REPEAL THE PROVISIONS PROVIDING SUPPLEMENTAL RETIREMENT FUNDS FOR FIREMEN IN THE CITY OF BURLINGTON.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (a) of Section 3 of Chapter 391 of the 1971 Session Laws reads as rewritten:

"(a) Each active volunteer fireman of the Town who has retired subsequent to January 1, 1969, and who has attained the age of 55 with thirty (30) years' service or more as a town volunteer fireman, shall be entitled to and shall receive in each calendar month following the calendar month in which he or she retires a monthly supplemental retirement benefit equal to ~~one dollar (\$1.00)~~ two dollars (\$2.00) for each full year of service as a volunteer fireman of the Town; provided, in the event, in any calendar month, funds in the Supplemental Retirement Fund are not available to pay a benefit equal to ~~one dollar (\$1.00)~~ two dollars (\$2.00) for each full year of service as a volunteer fireman of the Town, the Board of Trustees shall specify a lesser amount to be paid."

SECTION 2. Chapter 321 of the 1969 Session Laws, as amended by Chapter 1144 of the 1979 Session Laws and Chapter 612 of the 1987 Session Laws, is repealed.

SECTION 3. All funds remaining in the Burlington Firemen's Supplemental Retirement Fund and the Burlington Volunteer Firemen's Retirement Fund are transferred to the Board of Trustees of the Local Firemen's Relief Fund of the City of Burlington, to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes.

SECTION 4. Section 1 of this act becomes effective July 1, 2008, and applies to the payment of benefits 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 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-50**H.B. 2464****AN ACT TO PROHIBIT HUNTING FROM THE RIGHT-OF-WAY IN MARTIN COUNTY.***The General Assembly of North Carolina enacts:***SECTION 1.** The following acts are repealed:

- (1) Chapter 257 of the 1973 Session Laws, as amended by Chapter 89 of the 1977 Session Laws;
- (2) Chapter 1002 of the 1973 Session Laws;
- (3) Chapter 1154 of the 1979 Session Laws; and
- (4) Section 1 of Chapter 810 of the 1989 Session Laws.

SECTION 2. It is unlawful to hunt with or discharge a firearm on, from, or across the right-of-way of any highway or public road.**SECTION 3.** It is unlawful to possess a loaded firearm outside the passenger compartment of a vehicle while on the roadway or highway right-of-way, unless the person is the owner or lessee of the land abutting the right-of-way or has on his person the written permission of the owner or lessee of the land abutting the right-of-way to hunt on the land, dated within the last 12 months, or the person has a concealed carry permit and is only carrying a loaded, concealed weapon.**SECTION 4.** Violation of this act is a Class 3 misdemeanor.**SECTION 5.** 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 6.** This act applies only to Martin County.**SECTION 7.** This act becomes effective October 1, 2008, and applies to offenses occurring on or after that date.In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-51**H.B. 2575****AN ACT TO AUTHORIZE THE TOWN OF FLETCHER TO ENTER INTO AN AGREEMENT FOR THE CONVEYANCE OF LAND TO THE TOWN IN LIEU OF ANNEXATION.***The General Assembly of North Carolina enacts:***SECTION 1.** Notwithstanding any applicable provision of the General Statutes or any other public or local law, the Town of Fletcher is granted certain contract powers as follows:

- (1) The Town of Fletcher may, by agreement, provide that certain property described in the agreement as the "Meritor Property" shall not be involuntarily annexed by the Town prior to December 31, 2029, under the General Statutes as they now exist or may be subsequently amended. The Town of Fletcher shall not seek to repeal this act upon its approval by the General Assembly.
- (2) If no portion of the Meritor Property is used or held for use for industrial uses for a period of 180 consecutive days, the prohibition on

involuntary annexation provided for in subdivision (1) of this section shall cease to be of any force and effect. For purposes of this section, the term "industrial uses" means any use for the manufacture, assembly, storage, distribution, or development of any good or related service or any general office or training use associated with any of the foregoing and includes any type of manufacturing facility or warehouse used to support a manufacturing facility and any manufacturing use that complies with the requirements of Zoning Category M-1 of the Town of Fletcher Zoning Code.

- (3) Any agreement entered into as provided in subdivision (1) of this section is deemed by this section to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.
- (4) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the Town Council of the Town of Fletcher during the full term of the agreement and any extension thereof.
- (5) The parties to any agreement entered into as provided in subdivision (1) of this section are authorized by this section to modify, amend, and extend the agreement on mutual written consent, without the approval of the General Assembly, provided that any modification or amendment does not materially alter the concept of the agreement.

SECTION 2. The Town of Fletcher may accept the conveyance of a 93.97-acre tract of land located in Henderson County, and more particularly described in the general warranty deed recorded in the Office of the Register of Deeds of Henderson County in Book 1056, Page 702, et seq., and other good and valuable consideration in lieu of taxes as consideration for the agreement discussed in Section 1 of this act.

SECTION 3. The agreement under Section 1 of this act shall apply to the Meritor Property described as follows: an 86.32-acre tract identified as Henderson County Parcel No. 9652232678.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-52

H.B. 2614

AN ACT TO AUTHORIZE THE TOWN OF STOVALL TO PARTICIPATE IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM WITHOUT PROVIDING PRIOR SERVICE CREDITS TO ITS EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, if the Town of Stovall becomes a member of the Local Governmental Employees' Retirement System, the town council may elect to provide no prior service credit in the Retirement System for employees employed prior to the date that the town becomes a participating employer in the Retirement System, and no prior service credit will be given for employees of the town for service provided to the town prior to its participation in the

Retirement System, nor shall the town be required to pay for any prior service credits for its employees.

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

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-53

H.B. 2726

AN ACT TO REPEAL AN OBSOLETE AND UNENFORCEABLE PROVISION OF THE POLKVILLE TOWN CHARTER.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.3 of the Charter of the Town of Polkville, being Section 12 of Chapter 178 of the 1971 Session Laws, is repealed.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-54

H.B. 2763

AN ACT TO INCREASE THE MEMBERSHIP OF THE CURRITUCK COUNTY TOURISM DEVELOPMENT AUTHORITY FROM SIX TO EIGHT MEMBERS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1.1 of Chapter 209 of the 1987 Session Laws, as added by Section 3 of S.L. 2004-95, reads as rewritten:

"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 ~~eight~~ members: five-seven 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-Commissioner Residency District 1.
- (2) The county commissioner representing ~~the~~ Crawford Township-Commissioner Residency District 2.
- (3) The county commissioner representing ~~the Poplar Branch Township-Commissioner Residency District 3.~~
- (4) The county commissioner representing ~~the Fruitville Township-Commissioner Residency District 4.~~
- (5) The county commissioner representing Commissioner Residency District 5.
- (6) The two at-large county commissioner-commissioners.

(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 2. This act is effective December 2, 2008.

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-55

H.B. 2770

AN ACT INCREASING THE FORCE ACCOUNT LIMIT FOR THE CITIES OF WINSTON-SALEM AND ASHEBORO FOR CONSTRUCTION OR REPAIR PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) 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);~~ three hundred thousand dollars (\$300,000); provided that, for The University of North Carolina and its constituent institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university 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 two hundred thousand dollars (\$200,000) or the total cost of labor on the project does not exceed one hundred thousand dollars (\$100,000). 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 1.(b) This section applies only to the Carver School, Brewer, Robinhood and Cole Road/Sprague Street road projects and the Piedmont, Brushy Fork, Little Creek, Salem Creek Extension, and Muddy Creek greenway projects.

SECTION 1.(c) This section applies to the City of Winston-Salem only.

SECTION 1.(d) This section expires July 1, 2010.

SECTION 2.(a) 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);~~ three hundred thousand dollars (\$300,000); provided that, for The University of North Carolina and its constituent institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university 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 two hundred thousand dollars (\$200,000) or the total cost of labor on the project does not exceed one hundred thousand dollars (\$100,000). 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.(b) This section applies only to the Zoo City Park Project.

SECTION 2.(c) This section applies to the City of Asheboro only.

SECTION 2.(d) This section expires December 31, 2010.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-56

S.B. 1358

AN ACT TO ADOPT A STRATEGIC APPROACH TO PREVENT YOUTH INVOLVEMENT IN STREET GANG ACTIVITY, AND TO BE ENTITLED THE "NORTH CAROLINA STREET GANG PREVENTION AND INTERVENTION ACT."

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "North Carolina Street Gang Prevention and Intervention Act."

SECTION 2. G.S. 143B-543 reads as rewritten:

"§ **143B-543. Legislative intent.**

It is the intent of the General Assembly to prevent juveniles who are at risk from becoming delinquent. The primary intent of this Part is to develop community-based alternatives to youth development centers and to provide community-based ~~delinquency delinquency, and substance abuse-abuse, and gang~~ prevention strategies and programs. Additionally, it is the intent of the General Assembly to provide noninstitutional dispositional alternatives that will protect the community and the juveniles.

These programs and services shall be planned and organized at the community level and developed in partnership with the State. These planning efforts shall include appropriate representation from local government, local public and private agencies serving juveniles and their families, local business leaders, citizens with an interest in youth problems, youth representatives, and others as may be appropriate in a particular community. The planning bodies at the local level shall be the Juvenile Crime Prevention Councils."

SECTION 3. G.S. 143B-549 reads as rewritten:

"§ **143B-549. Powers and duties.**

(a) Each County Council shall review annually the needs of juveniles in the county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent and the resources available to address those needs. In particular, each County Council shall assess the needs of juveniles in the county who are at risk or who have been associated with gangs or gang activity, and the local resources that are established to address those needs. The Council shall develop and advertise a request for proposal process and submit a written plan of action for the expenditure of juvenile sanction and prevention funds to the board of county commissioners for its approval. Upon the county's authorization, the plan shall be submitted to the Department for final approval and subsequent implementation.

(b) Each County Council shall ensure that appropriate intermediate dispositional options are available and shall prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.

(c) On an ongoing basis, each County Council shall:

- (1) Assess the needs of juveniles in the community, evaluate the adequacy of resources available to meet those needs, and develop or propose ways to address unmet needs.
- (2) Evaluate the performance of juvenile services and programs in the community. The Council shall evaluate each funded program as a condition of continued funding.

- (3) Increase public awareness of the causes of delinquency and of strategies to reduce the problem.
- (4) Develop strategies to intervene and appropriately respond to and treat the needs of juveniles at risk of delinquency through appropriate risk assessment instruments.
- (5) Provide funds for services for treatment, counseling, or rehabilitation for juveniles and their families. These services may include court-ordered parenting responsibility classes.
- (6) Plan for the establishment of a permanent funding stream for delinquency prevention services.
- (7) Develop strategies to intervene and appropriately respond to the needs of juveniles who have been associated with gang activity or who are at risk of becoming associated with gang activity.

(d) The Councils may examine the benefits of joint program development between counties within the same judicial district."

SECTION 4. G.S. 143B-557 reads as rewritten:

"§ **143B-557. Powers and duties of the Council.**

The State Council shall have the following powers and duties:

- (1) Advise the Department in the review of the State's juvenile justice planning, the development of the community juvenile justice councils, and the development of a formula for the distribution of funds to Juvenile Crime Prevention Councils.
- (2) Advise all State agencies serving juveniles for the purpose of developing a consistent philosophy with regard to providing services to juveniles and promoting collaboration and the efficient and effective delivery of services to juveniles and families through State, local, and district programs and fully address problems of collaboration across State agencies with the goal of serving juveniles.
- (3) Review and comment on juvenile justice, delinquency prevention, gang prevention, and juvenile services grant applications prepared for submission under any federal grant program by any governmental entity of the State.
- (4) Review the juvenile justice system's operation and prioritization of funding needs.
- (5) Review the progress and accomplishment of State and local juvenile justice, delinquency prevention, and juvenile services projects.
- (5a) Review the level of gang activity throughout the State and assess the progress and accomplishments of the State, and of local governments, in preventing gangs and addressing the needs of juveniles who have been identified as being associated with gang activity.
- (6) Develop recommendations concerning the establishment of priorities and needed improvements with respect to juvenile justice, delinquency prevention, gang prevention, and juvenile services and report its recommendations to the General Assembly on or before March 1 each year.
- (7) Review and comment on the proposed budget for the Department."

SECTION 5. The Department of Public Instruction and the Department of Juvenile Justice and Delinquency Prevention shall report to the Joint Legislative

Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Joint Legislative Education Oversight Committee by December 1, 2008, on:

- (1) The prevalence of school violence and gang activity;
- (2) The use of Department Juvenile Crime Prevention Council programs for out-of-school suspension alternative learning programs for students who are identified as being associated with gangs;
- (3) Current programs that are designed to educate school personnel and parents on signs that a student may be involved or associated with a gang;
- (4) Effective practices for reducing school violence and gang activity that have been successfully implemented in other states; and
- (5) Any findings and recommendations, including any proposed legislation, for further implementation and coordination between the Department of Juvenile Justice and Delinquency Prevention and the Department of Public Instruction to address issues related to prevention and intervention of youth gang activity.

SECTION 6. The Department of Crime Control and Public Safety shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by December 1, 2008, on the protocols and procedures used to enter identifying information of juveniles in the GangNet database system. The report shall include any recognized standards for continuing the listing of juveniles in the database, the benefits, if any, of maintaining juvenile listings for extended periods, and any recommendations concerning the listing of juveniles in GangNet.

SECTION 7. The Governor's Crime Commission shall develop the criteria for eligibility for funds appropriated for gang prevention and intervention. The criteria shall include a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and presentation of a written plan for the services to be provided by the funds. Funds shall be available to public and private entities or agencies for juvenile and adult programs that meet the criteria established by the Governor's Crime Commission. The Commission shall identify the cities and towns that do not have full-time parks and recreation staff, and provide targeted outreach and information to public and private agencies, and non-profit organizations, in those cities, towns, and unincorporated areas about their eligibility for these funds.

The Governor's Crime Commission shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 15, 2009, on this program. The report shall include all of the following:

- (1) The grant award process.
- (2) A description of each grant awarded.
- (3) The performance criteria for evaluating grant programs.
- (4) A list of State grants awarded in the 2008 grant cycle.

SECTION 8. Section 7 of this act becomes effective July 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of June, 2008.

Became law upon approval of the Governor at 11:14 a.m. on the 6th day of July, 2008.

Session Law 2008-57

S.B. 1590

AN ACT TO AMEND THE CHARTER OF THE VILLAGE OF BALD HEAD ISLAND RELATING TO THE APPOINTMENT OF THE TOWN CLERK.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.3 of the Charter of the Village of Bald Head Island, being S.L. 1997-324, reads as rewritten:

"Section 4.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief administrator, the Village Manager shall have the power to appoint, suspend, and remove all officers, department heads, and employees in the administrative service of the Village, with the exception of the Village ~~Attorney, the Village Clerk, Attorney~~ and any other official whose appointment or removal is specifically vested in the Council by this Charter or by general law. Neither the Council nor any of its members shall take part in the appointment or removal of officers and employees in the administrative service of the Village, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Village Attorney, the Council and its members shall deal with the administrative service solely through the Village Manager, Acting Manager, or Interim Manager, and neither the Council nor any of its members shall give any specific orders to any subordinates of the Village Manager, Acting Manager, or Interim Manager, either publicly or privately."

SECTION 2. Section 4.5 of the Charter of the Village of Bald Head Island, being S.L. 1997-324, reads as rewritten:

"Section 4.5. **Village Clerk.** The Village ~~Council-Manager~~ shall appoint a Village 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 Council~~ may direct. The Village Manager shall supervise and may remove the Village Clerk."

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

In the General Assembly read three times and ratified this the 7th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-58

S.B. 1970

AN ACT TO ALLOW THE CITY OF WILSON TO ADOPT ORDINANCES REGULATING THE DEMOLITION OF HISTORIC STRUCTURES IN THE CITY'S HISTORIC DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2007-66 reads as rewritten:

"**SECTION 2.** This act applies to the Towns of Cary and Wake Forest and to the City of Wilson only."

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

In the General Assembly read three times and ratified this the 7th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-59**S.B. 1971**

AN ACT TO ALLOW THE CITIES OF ROCKY MOUNT AND WILSON TO DECLARE RESIDENTIAL AND NONRESIDENTIAL BUILDINGS IN COMMUNITY DEVELOPMENT TARGET AREAS UNSAFE AND TO HAVE THE OPTION OF REMOVING OR DEMOLISHING THOSE BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-425.1(d) reads as rewritten:

"(d) This section applies to the Cities of Clinton, Durham, Fayetteville, Goldsboro, High Point, Lumberton, Rocky Mount, and Wilson, and the Towns of Garner, Franklin, Hope Mills, Louisburg, and Spring Lake only."

SECTION 2. G.S. 160A-432(a1) reads as rewritten:

"(a1) [Removal of Building: Certain Localities.] – In the case of a residential building or nonresidential building or structure declared unsafe under G.S. 160A-425.1, a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

This subsection applies to the Cities of Clinton, Durham, Fayetteville, Goldsboro, High Point, ~~and Lumberton~~, Lumberton, Rocky Mount, and Wilson, and the Towns of Garner, Franklin, Hope Mills, Louisburg, and Spring Lake."

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

In the General Assembly read three times and ratified this the 7th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-60**S.B. 2118**

AN ACT AUTHORIZING THE VILLAGE OF WESLEY CHAPEL TO LEASE CERTAIN DESCRIBED PROPERTY TO THE YMCA FOR A TERM OF MORE THAN TEN YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-272, the Village of Wesley Chapel may lease six acres of land on State Highway 84, having the Tax Lot # 80-6048007 and being more particularly described in a deed recorded in the Union County Public Registry in Book 2087, Page 679, et. seq., to the YMCA of Greater Charlotte for a term of more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less.

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

In the General Assembly read three times and ratified this the 7th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-61

S.B. 2137

AN ACT TO PROVIDE THAT THE TOWN OF SUMMERFIELD SHALL FOLLOW THE GENERAL LAW FOR THE FILLING OF TOWN COUNCIL VACANCIES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.4 of the Charter of the Town of Summerfield, being Chapter 426 of the 1995 Session Laws, reads as rewritten:

"Sec. 3.4. **Vacancies.** ~~Notwithstanding G.S. 160A-63, persons appointed by the Town Council to fill vacancies~~ Vacancies on the Council serve the remainder of the unexpired term. shall be filled in accordance with G.S. 160A-63."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-62

H.B. 2271

AN ACT TO REPEAL THE SUNSET ON THE LAW AUTHORIZING THE TOWN OF TROY AND THE TROY REDEVELOPMENT COMMISSION TO USE THE "QUICK TAKE" PROCEDURE WHEN ACQUIRING PROPERTY FOR THE SMITHERMAN VILLAGE NEIGHBORHOOD.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of S.L. 2003-328 reads as rewritten:

"**SECTION 5.** This act is effective when it becomes law, ~~but Section 1 expires July 1, 2008, law.~~"

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, 2008.

Became law on the date it was ratified.

Session Law 2008-63

H.B. 2278

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF ANGIER.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Angier is revised and consolidated to read as follows:

"CHARTER OF THE TOWN OF ANGIER.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Angier and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name of the 'Town of Angier,' hereinafter at times referred to as the 'Town.'

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Angier specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Harnett County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body.** The Board of Commissioners, hereinafter referred to as the 'Board,' and the Mayor shall be the governing body of the Town.

"Section 2.2. **Board of Commissioners; Composition; Terms of Office.** The Board shall be composed of four members to serve staggered terms of four years and until their successors are elected and qualified. The Town is divided into single-member wards; and candidates shall reside in and represent the districts according to the apportionment plan adopted, but all candidates shall be elected by all the qualified voters of the Town. A member for each of Wards 1 and 3 shall be selected in 2009 and quadrennially thereafter for a four-year term, and a member for each of Wards 2 and 4 shall be selected in 2011 and quadrennially thereafter for a four-year term. A map of the wards shall be maintained by the Town Clerk's office and filed with the board or boards of elections conducting town elections. Until changed by the Board of Commissioners, the boundaries of the wards on January 1, 2008, shall remain in effect.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years and until a successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. The Mayor shall have the right to vote only when there is an equal division on any question or matter before the Board and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability.

"Section 2.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation, qualifications, and filling of vacancies of the Mayor and Commissioners shall be in accordance with general law.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** At the regular municipal election in 2011, and quadrennially thereafter, a Mayor shall be elected to serve a term of four years.

"Section 3.3. **Election of Commissioners.** At the regular municipal election in 2009, and quadrennially thereafter, two Commissioners shall be elected to four-year terms. At the regular municipal election in 2011, and quadrennially thereafter, two Commissioners shall be elected to four-year terms.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Attorney.** The Town Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Section 4.3. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Tax Collector.** The Town Manager shall appoint a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

"Section 4.5. **Other Administrative Officers and Employees.** The Town Board may authorize other positions to be filled by appointment and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. MISCELLANEOUS.

"Section 5.1. **Utility Billing and Termination.** The Town may provide that any fee imposed pursuant to G.S. 160A-314 for the purpose of G.S. 160A-311(2), 160A-311(3), and 160A-311(6) may be billed together in one itemized statement. The board of commissioners may provide by ordinance the order in which partial payments are to be applied among services. In the case of nonpayment within a period of not less than 30 days, the town may terminate any or all such service for which full payment has not been made.

"Section 5.2. **Weeded Lot Ordinance.** The Town may notify a violator of the municipality's weeded lot ordinance that if the violator's property is found to be in violation of the ordinance again in the calendar year in which notice is given, the Town shall, without further notice, take action to remedy the violation, and the expense of that action shall be charged to the violator. The notice may also provide that for each additional violation the Town shall charge the violator the expense of the action and a surcharge of up to fifty percent (50%) over the expense to remedy the preceding violation. Notice of violation shall be served by registered or certified mail."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Angier and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 3.(a) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

- (1) Chapter 652 of the 1975 Session Laws (current charter).
- (2) Chapter 502 of the 1991 Session Laws, as to the Town of Angier only (utility billing and termination, consolidated in Section 5.1).
- (3) S.L. 2005-308 as to the Town of Angier only (weeded lot ordinance, consolidated in Section 5.2).

SECTION 3.(b) This act does not affect any of the following acts:

- (1) Chapter 626 of the 1969 Session Laws, as amended (relating to liquor control stores).
- (2) Chapter 144 of the 1971 Session Laws (relating to liquor control stores).
- (3) Chapter 75 of the 1991 Session Laws (relating to liquor control stores).
- (4) S.L. 2002-40 (relating to liquor control stores).

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the Town of Angier and all existing rules or regulations of departments or agencies of the Town of Angier not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Angier or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superseded.

SECTION 10. This act does not affect the terms of office of the current Mayor and Board of Commissioners of the Town of Angier.

SECTION 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-64

H.B. 2156

AN ACT TO AUTHORIZE THE TOWN OF LELAND TO LEVY A ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1.1. Occupancy tax. – (a) Authorization and Scope. – The Town Council of the Town of Leland 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 1.1.(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 1.1.(c) Distribution and Use of Tax Revenue. – The Town of Leland shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Leland 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 the Town of Leland 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 proceeds 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 Leland 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 1.2. Tourism Development Authority. – (a) Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Leland 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 shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for the Town of Leland shall be the ex officio finance officer of the Authority.

SECTION 1.2.(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 1.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Leland Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

SECTION 2. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Burgaw, Carolina Beach, Carrboro, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, Mooresville, North Topsail Beach, Pilot Mountain, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

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

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-65

H.B. 2255

AN ACT TO INCLUDE EDGECOMBE, NASH, AND WILSON COUNTIES WITHIN THE PROVISIONS OF A 1983 ACT WHICH INCREASED THE VALUE OF WORK THAT MAY BE DONE WITHOUT A BUILDING PERMIT FOR SMALL JOBS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of Chapter 614 of the 1983 Session Laws is repealed.

SECTION 2. This act becomes effective September 1, 2008.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-66**H.B. 2343****AN ACT TO PROVIDE PROCEDURES FOR THE CITY OF DURHAM TO REVISE ELECTION WARD BOUNDARIES.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended by Chapter 369 of the 1983 Session Laws, and as amended by Ordinance 12281 of the City of Durham, adopted May 7, 2001, under G.S. 160A-104 and G.S. 160A-106, reads as rewritten:

"Sec. 4. Election Wards. –

(a) The territory located within the corporate limits of the City shall continue to be divided into three numbered election wards-wards, which shall be shown on the map showing the city limits maintained by the City Clerk pursuant to the provisions of general law. A written description or map showing the current boundaries of the respective three election wards shall be maintained in the office of the City Clerk, and shall be available for public inspection.

(b) Such ward boundaries may be amended periodically pursuant to the provisions of ~~General Law~~general law.

~~Whenever areas are hereafter annexed and made a part of the City, the City Council shall by ordinance redefine and rearrange the three election wards so as to include such annexed areas. Such ordinance shall be adopted at least 60 days prior to the municipal primary next succeeding the date of any annexation and shall provide for three election wards of approximately equal population. In redefining and rearranging the election ward lines, the City Council shall follow as nearly as practical, existing ward lines.~~

(c) Within six months of the release of official United States decennial census figures (but not later than seven calendar days before the opening of filing under G.S. 163-294.2 for the next regular municipal election after release of the figures), the City Council shall by ordinance, using such figures and taking into account the election ward boundaries in existence at the time, revise the three election wards so that they are of approximately equal population, as determined in the discretion of the City Council.

(d) The council shall allocate to the election wards, or by ordinance provide procedures for the city manager to allocate to the election wards, areas that are annexed to the city after the ordinance adopted pursuant to subsection (c) of this section and such allocation shall be made before the effective date of each annexation.

(e) This section is supplementary to the provisions of general law. In case of conflict or inconsistency, this section controls."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-67**H.B. 2468****AN ACT TO EXEMPT IREDELL COUNTY AND THE TOWN OF MOORESVILLE FROM CERTAIN REQUIREMENTS FOR PUBLIC CONTRACTS.**

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, and 143-132, Iredell County may purchase and erect a prefabricated modular building system, including kennels, trough drains, watering equipment, and other appurtenances associated with kennel facilities, and which may include an office and administrative facility, for use as an animal shelter that will be located on Bristol Drive, Statesville, North Carolina, and may, notwithstanding any provision of law, award the contract for the prefabricated modular building system and the associated equipment and appurtenances in its sole discretion. The remainder of the animal shelter project, including any on-site construction work and the portions of the plumbing, mechanical, and electrical work which must be performed at the construction site, shall be contracted and bid in compliance with Article 8 of Chapter 143 of the General Statutes.

SECTION 2. Notwithstanding G.S. 143-128, the Town of Mooresville may use the design-build method of construction for a sewer pumping station that will be located on Presbyterian Road, Mooresville, North Carolina.

SECTION 3. Section 1 of this act is effective when it becomes law and expires July 1, 2010. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-68

H.B. 2563

AN ACT TO ALLOW RICHMOND COUNTY TO REMOVE UNAUTHORIZED VEHICLES FROM PRIVATE LOTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-219.2(c) reads as written:

"(c) This section shall apply only to the Counties of Craven, Dare, Forsyth, Gaston, Guilford, New Hanover, Orange, Richmond, Robeson, Wake, Wilson and to the Cities of Durham, Jacksonville, Charlotte and Fayetteville."

SECTION 2. This act becomes effective December 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-69

H.B. 2738

AN ACT TO PROVIDE THAT ELECTING COUNTIES WILL BE HELD HARMLESS FOR WORK FIRST FAMILY ASSISTANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 108A-27.11(c), Electing Counties shall be held harmless in the 2008-2009 fiscal year for Work First Family Assistance up to the actual TANF/Work First Family Assistance block grant allocation for fiscal year 2007-2008.

SECTION 2. This act applies to Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, and Wilson counties only.

SECTION 3. This act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-70

H.B. 2752

AN ACT TO AUTHORIZE THE CITY OF SANFORD TO MAKE SPECIAL ASSESSMENTS AGAINST BENEFITED PROPERTY WITHIN LEE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-216 reads as rewritten:

"§ 160A-216. **Authority to make special assessments.**

Any city is authorized to make special assessments against benefited property within ~~its corporate limits~~ the corporate boundaries of the county in which it primarily lies for:

- (1) Constructing, reconstructing, paving, widening, installing curbs and gutters, and otherwise building and improving streets;
- (2) Constructing, reconstructing, paving, widening, and otherwise building or improving sidewalks in any public street;
- (3) Constructing, reconstructing, extending, and otherwise building or improving water systems;
- (4) Constructing, reconstructing, extending, or otherwise building or improving sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems;
- (5) Constructing, reconstructing, extending, and otherwise building or improving storm sewer and drainage systems."

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

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

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-71

S.B. 1598

AN ACT TO AUTHORIZE THE COUNTY OF NEW HANOVER, THE CITIES OF LOCUST AND WILMINGTON, THE TOWNS OF BEULAVILLE, BUTNER, ERWIN, HOBGOOD, MAYODAN, MOUNT OLIVE, OAKBORO, ORIENTAL, PINEVILLE, AND THE VILLAGE OF PINEHURST TO REGULATE GOLF CARTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-300.5 reads as rewritten:

"§ 160A-300.5. **Regulation of golf carts on streets in certain localities.**

(a) Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a ~~town~~ city may, by ordinance, regulate the operation of golf carts on any public street or highway within the city limits, or on any property owned or leased by the city.

(b) By ordinance, a city may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts.

(c) This section applies to the County of New Hanover, ~~City of~~ to the Cities of Locust, Saluda, and Wilmington, ~~Saluda and~~ to the Towns of Badin, Beulaville, Butner, Carolina Beach, Emerald Isle, Erwin, Faison, Fremont, Hobgood, Indian Beach, Kings Mountain, Kure Beach, Mayodan, Morrisville, Mount Olive, Oakboro, Oriental, Pineville, Shelby, and ~~Wrightsville Beach~~ Wrightsville Beach, and to the Village of Pinehurst only.

(d) For purposes of this section, the term 'city' shall include a city, a town, a village, or a county. For purposes of this section, the term 'county' shall mean any unincorporated areas within that county boundary."

SECTION 2. As this act applies to the Town of Mayodan, the Town of Mayodan shall not enact any ordinances regulating golf carts until a public hearing is held and there is a vote by the governing body approving the issue.

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-72

H.B. 2162

AN ACT TO AUTHORIZE RICHMOND COMMUNITY COLLEGE TO ENTER INTO A COLLABORATIVE AGREEMENT WITH THE CITY OF LAURINBURG.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 115D-15.1(c), G.S. 143-341(3)a., or any other provision of law pertaining to capital improvements, Richmond Community College may, in collaboration with the City of Laurinburg, use State grant funds to construct an approximately 18,000 square foot building on property owned by the City of Laurinburg located at 600 McLean Street in Laurinburg. The facility shall consist of college classrooms, office space, and laboratories. Upon the completion of the facility, the property and building shall be transferred to Richmond Community College.

If at any time the City terminates the transfer of property, the City shall reimburse to Richmond Community College a prorated amount of the State funds provided for the construction.

SECTION 2. This act is effective when it becomes law and expires December 31, 2011.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-73

H.B. 2376

AN ACT TO AUTHORIZE THE CITY OF GOLDSBORO TO REPURCHASE A PERFORMING ARTS FACILITY PREVIOUSLY OWNED BY THAT CITY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 8 of Chapter 143 of the General Statutes, the City of Goldsboro may repurchase, through a financing arrangement or lease-purchase arrangement, a performing arts facility previously owned by the City that was destroyed by fire and is currently owned by a nonprofit foundation.

SECTION 2. This act is effective when it becomes law and expires December 31, 2008.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-74

H.B. 2414

AN ACT TO ANNEX CERTAIN DESCRIBED PORTIONS OF FORT BRAGG TO THE CITY OF FAYETTEVILLE OR THE TOWN OF SPRING LAKE.

The General Assembly of North Carolina enacts:

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

BEGINNING at a point where the northwestern corner of parcel 9477-34-8113 intersects with the eastern boundary of Hoke County, western boundary of Cumberland County, and the southern boundary of the Fort Bragg Military Reservation; thence continuing along the southern boundary of the Fort Bragg Military Reservation in a northeasterly direction to the northeastern corner of parcel 9488-53-8462; thence continuing with the said boundary in a southerly direction to a point being the northwestern corner of parcel 9487-68-3840; thence in a northeasterly direction to the northern most point of parcel 9487-88-0909; thence continuing with said boundary of the Fort Bragg Military Reservation in an easterly direction to a point in the western boundary of parcel 9497-39-7792; thence in a northerly direction along the Fort Bragg Military Reservation boundary to a point in the northern right-of-way margin of the Morganton Road Extension; thence continuing along said boundary in a northeasterly direction to the southeastern corner of parcel 9498-37-5232; thence in a northwesterly direction to the eastern most corner of parcel 9498-28-2374; thence continuing along said boundary in a northeasterly direction to the eastern right-of-way margin of Amboy Drive; thence continuing in a northeasterly direction along the Fort Bragg Military Reservation boundary to a point in eastern right-of-way margin of Murchison Road; thence in a southeasterly direction to the northwestern corner of parcel 0419-99-4174; thence continuing along the Fort Bragg Military Reservation boundary in a northeasterly direction to the northern most corner of parcel 0429-19-9339; thence in a southeasterly direction to a point in said parcel; thence in a northeasterly direction to the northern most corner of parcel 0520-72-5719; thence continuing along the Fort Bragg Military Reservation boundary in a northwesterly direction to a point in the southern right-of-way margin of Honeycutt Road; thence continuing along said right-of-way in a southwesterly direction to a point; thence crossing said right-of-way margin to the southernmost point of parcel 0520-38-0437; thence continuing along the Fort Bragg Military Reservation boundary in a northerly direction to the northern most corner of parcel 0521-32-8008; thence continuing along said boundary in an easterly direction to a point in parcel 0532-00-8754; thence continuing along the Fort Bragg Military Reservation boundary in a northerly direction to the southern right-of-way margin of

McCloskey Road; thence leaving said boundary line continuing along the southern right-of-way margin of McCloskey Road in westerly direction to a point in the boundary line of the Fort Bragg Military Reservation said point being in the southern boundary line of parcel 0511-07-6534; thence in a southwesterly direction to the eastern right-of-way margin of the CSX Railroad; thence in a southeasterly direction along said Railroad right-of-way to the southeastern corner of parcel 0501-91-3894; thence in a westerly direction to the eastern right-of-way margin of Bragg Boulevard; thence in a northerly direction along said right-of-way to the northern right-of-way margin of Butner Road; thence continuing along said right-of-way margin of Butner Road in a westerly direction to a point in the eastern right-of-way margin of Armistead Street; thence in a northerly direction along said right-of-way margin to the southern right-of-way margin of Hercules Drive; thence in southwesterly direction to a point in Reilly Street, said point being in the boundary line between the Fort Bragg Military Reservation and Pope Air Force Base; thence continuing in a northwesterly direction along said boundary line to a point; thence along said boundary line in a southwesterly direction to a point in said boundary; thence continuing along said boundary line in a southerly direction to a point in said boundary; thence in a southwesterly direction to the western right-of-way margin of Malvesty Street; thence along the Fort Bragg Military Reservation and Pope Air Force Base boundary line in a southwesterly direction to a point in the southern right-of-way margin of Hurst Drive; thence continuing along said boundary line to a point in the southern right-of-way margin of Manchester Road; thence following the southern right-of-way margin of Manchester Road in a westerly direction to a point said point being in the dividing line between Hoke County and Cumberland County; thence continuing along dividing line in a southerly direction to the point of BEGINNING.

SECTION 2. Spring Lake 1. The corporate limits of the Town of Spring Lake are extended to include the following described territory:

BEGINNING at a point in the southern right-of-way margin of Manchester Road said point being in the dividing line between Hoke County and Cumberland County; thence continuing in a northerly direction along said dividing line to a point said point being at the intersection of Moore, Cumberland and Harnett Counties; thence with the dividing line between Harnett County and Cumberland County in a northeasterly direction to a point said point being in the western right-of-way margin of Bragg Boulevard; thence in a southeasterly direction along the dividing line between Harnett and Cumberland Counties to a point in the western boundary line of parcel 0503-93-4430; thence in a southerly direction along said boundary to the northern most corner of parcel 0503-40-9973; thence in a southwesterly direction to the southeast corner of parcel 0503-30-0138; thence northwesterly to the northeast corner of said parcel; thence in a southwesterly direction to the southeast corner of parcel 0503-20-6521; thence in a northwesterly direction to the northern most point of parcel 0503-20-5665; thence in a southwesterly direction to a point in the western right-of-way margin of Bragg Boulevard; thence continuing along the western right-of-way margin of Bragg Boulevard in a southerly direction to a point; thence in a southwesterly direction to the northwest corner of parcel 0503-20-3353; thence in a northerly direction to the northeast corner of parcel 0503-10-9663; thence in a northwesterly direction to the northwest corner of parcel 0503-10-3167; thence in a southwesterly direction to the western most point of parcel 0503-00-2190; thence along said western boundary to the southwest corner of said parcel; thence easterly to the southeast corner of said parcel; thence continuing along the southern boundary line of parcels 0503-10-3167, 0502-19-7933,

and 0503-20-3353 to the western right-of-way of Bragg Boulevard; thence in a southerly direction along the western right-of-way of Bragg Boulevard to the northeast corner of parcel 0502-27-8812; thence in a westerly direction to the northwest corner of said parcel; thence in a southerly direction to the southwest corner of parcel 0502-27-9309; thence in an easterly direction along the southern boundary of said parcel to the western right-of-way margin of Bragg Boulevard; thence in a southerly direction along the western right-of-way margin of Bragg Boulevard to a point in the dividing line between the existing Spring Lake City Limit line and the Fort Bragg Military Reservation; thence continuing along said dividing line to the northwest corner of parcel 0502-14-4359; thence in a westerly direction along the dividing line between Cumberland County and the Fort Bragg Military Reservation to the western right-of-way margin of CSX Railroad; thence continuing in a northerly direction along said right-of-way margin to the northern most corner of parcel 9592-68-4610; thence in a southwesterly direction to the northwest corner of parcel 9592-37-7320; thence in a southerly direction to the southwest corner of parcel 9592-35-8692; thence in a northeasterly direction to the southeast corner of parcel 9592-65-1906; thence in a southerly direction to the southwest corner of parcel 9592-64-2618; thence in a southeasterly direction to the western right-of-way margin of the CSX Railroad; thence continuing along the right-of-way margin of the CSX Railroad in a southerly direction to the northern right-of-way margin of Butner Road; thence continuing along said right-of-way margin of Butner Road in a westerly direction to a point in the eastern right-of-way margin of Armistead Street; thence in a northerly direction along said right-of-way margin to the southern right-of-way margin of Hercules Drive; thence in a southwesterly direction to a point in Reilly Street, said point being in the boundary line between the Fort Bragg Military Reservation and Pope Air Force Base; thence continuing in a northwesterly direction along said boundary line to a point; thence along said boundary line in a southwesterly direction to a point in said boundary; thence continuing along said boundary line in a southerly direction to a point in said boundary; thence in a southwesterly direction to the western right-of-way margin of Malvesty Street; thence along the Fort Bragg Military Reservation and Pope Air Force Base boundary line in a southwesterly direction to a point in the southern right-of-way margin of Hurst Drive; thence continuing along said boundary line to a point in the southern right-of-way margin of Manchester Road; thence following the southern right-of-way margin of Manchester Road in a westerly direction to a point said point being in the dividing line between Hoke County and Cumberland County to the point of BEGINNING.

SECTION 3. Spring Lake 2. The corporate limits of the Town of Spring Lake are extended to include the following described territory:

BEGINNING at a point in the southern right-of-way margin of E. Manchester Road said point also being the western most corner of parcel 0512-29-0411; thence continuing in a southerly direction to the bank of the Little River, said point also being the southeast corner of parcel 0512-29-5238; thence with the bank of the Little River as it meanders in a southwesterly direction to the northern most corner of parcel 0512-06-7531; thence continuing along said parcel in a southwesterly direction to a point on the eastern bank of the Little River; thence continuing with the bank of the Little River as it meanders to a point in the southern right-of-way margin of E. Manchester Road; thence continuing with said right-of-way margin in a northeasterly direction to the point of BEGINNING. Said lands lie within the Fort Bragg Military Reservation.

SECTION 4. Spring Lake 3. The corporate limits of the Town of Spring Lake are extended to include the following described territory:

BEGINNING at a point where Spring Avenue, Grogg Street, and McCormick Road intersect; thence in a northerly direction along the western right-of-way margin of McCormick Road and beyond said line also being the boundary line of the Fort Bragg Military Reservation to a point in the southern boundary line of parcel 0512-78-7599; thence continuing along said parcel boundary to the eastern most corner of said parcel; thence continuing along the Fort Bragg Military Reservation boundary line in a southeasterly direction to the northern right-of-way margin of Johnson Farm Road; thence crossing said right-of-way in a southerly direction and running with the boundary line of the Fort Bragg Military Reservation to the southern right-of-way margin of McCloskey Road; thence leaving said boundary line continuing along the southern right-of-way margin of McCloskey Road in westerly direction to a point in the boundary line of the Fort Bragg Military Reservation said point being in the southern boundary line of parcel 0511-07-6534; thence in a northeasterly direction to the eastern most corner of said parcel; thence in a northwesterly direction to the point of BEGINNING.

SECTION 5. This act shall not create or increase any right for a city to regulate or otherwise influence activities of the federal government or any activities and operations occurring in or on Fort Bragg Military Reservation or Pope Air Force Base.

SECTION 6. This act becomes effective September 1, 2008.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-75

H.B. 2579

AN ACT TO ALLOW THE TOWN OF CHAPEL HILL TO ADOPT ORDINANCES REGULATING THE DEMOLITION OF HISTORIC STRUCTURES IN THE TOWN'S HISTORIC DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2007-66 reads as rewritten:

"**SECTION 2.** This act applies to the Towns of ~~Cary~~ Cary, Chapel Hill, and Wake Forest only."

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-76

H.B. 2580

AN ACT TO EXTEND THE AUTHORITY OF THE TOWN OF CHAPEL HILL TO REQUIRE PAYMENTS-IN-LIEU FOR RECREATIONAL FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5.42 of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws as added by Section 3 of Chapter 549 of the

1993 Session Laws and incorporated in the Charter under G.S. 160A-496, reads as rewritten:

"Sec. 5.42. Developers to make payment to town in lieu of reserving or dedicating recreation area.

(a) A town may adopt ordinances applicable in the town and the town's extraterritorial planning jurisdiction to require that developers make payment to the town in lieu of reserving or dedicating recreation areas, where the town's planning and development regulations would otherwise require provision of recreation areas equaling ~~two~~ four acres or less. The amount of payment shall be determined through procedures to be established by ordinance and in a manner consistent with G.S. 160A-372.

(b) A town may adopt ordinances applicable in the town and the town's extraterritorial planning jurisdiction to require that developers make payment to the town in lieu of providing improved recreation space and facilities under G.S. 160A-381(c) in:

- (1) New residential developments. The amount of payment shall be determined through procedures to be established by ordinance and in a manner consistent with G.S. 160A-372.
- (2) New nonresidential developments. The amount of payment shall be determined through procedures to be established by ordinance and shall be based on the potential demand for recreational facilities to be generated by the new development."

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-77

H.B. 2640

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY COUNCIL TO DELEGATE TO THE CITY MANAGER THE AUTHORITY TO CONCLUDE THE SALE AND CONVEYANCE OF REAL PROPERTY.

The General Assembly of North Carolina enacts:

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

"Sec. 86.3. City Manager authorized to conclude the sale of real property. The city council may after authorizing the sale of real property under the provisions of Article 12 of Chapter 160A of the General Statutes delegate to the city manager the power to take any action that the city council is required or allowed to take to conclude the sale and conveyance of the real property, including accepting and confirming bids and offers, requiring deposits, publishing notices and advertisements, receiving reports of bids, and rejecting all bids and offers. The city manager shall within 45 days following the acceptance of a bid or a similar final determination, made within the discretion of the city manager, submit to the city council a written report setting forth a legal and general description of the property, the purchase price, and the names of the persons to whom the property will be or has been conveyed. The city manager's authority under this section is in addition to and not limited by any other authority

granted to the city manager under the provisions of this charter or any general, special, or local law."

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-78

H.B. 2666

AN ACT TO AUTHORIZE HOSPITAL POLICE OFFICERS IN ASHE COUNTY CERTIFIED PURSUANT TO CHAPTER 74E OF THE GENERAL STATUTES TO DIRECT TRAFFIC ON STREETS AND HIGHWAYS ADJACENT TO THE HOSPITAL AND HOSPITAL HELIPAD IN ORDER TO FACILITATE HELICOPTER TRAFFIC.

The General Assembly of North Carolina enacts:

SECTION 1. This act applies to Ashe County only.

SECTION 2. Any company police officer holding a certification issued pursuant to Chapter 74E of the General Statutes and contracted with a local hospital or hospital authority may, upon written agreement between the hospital's chief executive officer and the sheriff of the county, direct traffic solely for the purpose of assisting with the arrival and departure of helicopters enroute to or from the hospital upon only that portion of a street or highway immediately adjoining the hospital property that is also immediately adjoining a helipad owned by the hospital. Traffic direction authorized by this act shall not be considered a violation of G.S. 20-174.1 or Chapter 74E of the General Statutes.

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-79

H.B. 2771

AN ACT TO PROVIDE THAT THE SHERIFF OF MARTIN COUNTY AND THE SHERIFF'S LAWFUL DEPUTIES HAVE JURISDICTION TO SERVE CIVIL AND CRIMINAL PROCESS ON INMATES WHO ARE IN THE CUSTODY OF AND ON PREMISES OF THE BERTIE-MARTIN REGIONAL JAIL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162-14 reads as rewritten:

"§ 162-14. **Duty to execute process.**

(a) Every sheriff, by himself or his lawful deputies, shall execute and make due return of all writs and other process to him legally issued and directed, within his county or upon any river, bay or creek adjoining thereto, or in any other place where he may lawfully execute the same.

(b) Notwithstanding any other law, the Sheriff of Martin County and the Sheriff's lawful deputies in addition to the jurisdiction provided by subsection (a) of this section, shall also have jurisdiction to execute process as provided by subsection (a) of this

section on an inmate who is in the custody of and on the premises of the Bertie-Martin Regional Jail which is located in Bertie County."

SECTION 2. This act applies only to Bertie and Martin Counties.

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-80

H.B. 2364

AN ACT TO AUTHORIZE THE ENCROACHMENT OF AIR SPACE ABOVE STATE ROAD 1100, RIVER ROAD, IN THE CITY OF WILMINGTON FOR THE CONSTRUCTION OF A MATERIAL CONVEYANCE SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation is hereby authorized to permit private use and encroachment upon the air space above State Road 1100, River Road, in the City of Wilmington, for the purpose of construction of a material conveyance system, provided in the opinion of the Department of Transportation, such material conveyance system will not unreasonably interfere with or impair the property rights or easements of abutting owners nor unreasonably interfere with or obstruct the public use of State Road 1100, River Road. This encroachment shall be subject to all other rules, regulations, and conditions of the Department of Transportation for encroachments. The location, plans, and specifications for the material conveyance system shall be approved by the Department.

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, 2008.

Became law upon approval of the Governor at 12:00 p.m. on the 11th day of July, 2008.

Session Law 2008-81

H.B. 2529

AN ACT TO EXTEND THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, the Legislative Commission on Global Climate Change was established by S.L. 2005-442 to conduct an in-depth examination of issues related to global climate change; and

Whereas, the Legislative Commission on Global Climate Change has met regularly since its inception in pursuit of its legislative charge; and

Whereas, the Legislative Commission on Global Climate Change needs additional time to carry out its legislative charge; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 2005-442, as amended by S.L. 2006-73, reads as rewritten:

"SECTION 11. Reports. – The Commission ~~shall submit an interim report to the General Assembly and the Environmental Review Commission no later than 15 January~~

~~2007 and~~ may submit interim reports ~~at other times~~ at its discretion. The Commission shall submit a final report, including any findings and recommendations, to the 2009 General Assembly and the Environmental Review Commission on or before ~~15 April 2008,~~ 1 October 2009, at which time the Commission shall terminate."

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

In the General Assembly read three times and ratified this the 2nd day of July, 2008.

Became law upon approval of the Governor at 12:03 P.M. on the 11th day of July, 2008.

Session Law 2008-82

H.B. 2748

AN ACT TO DISAPPROVE RULES ADOPTED BY THE STATE PERSONNEL COMMISSION RELATING TO TEMPORARY EMPLOYMENT SERVICES AND APPOINTMENT OF TEMPORARY EMPLOYEES AND TO DIRECT THE OFFICE OF STATE PERSONNEL TO STUDY THE ISSUE OF NONPERMANENT EMPLOYMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 25 NCAC 01C .0216 (Temporary Employment Services), 25 NCAC 01C .0217 (Office of State Personnel Temporary Employment Service), 25 NCAC 01C .0405 (Temporary Appointment), and 25 NCAC 01C .0407 (Temporary Part-Time Appointment) as adopted by the State Personnel Commission on February 16, 2007, and approved by the Rules Review Commission on May 17, 2007, are disapproved.

SECTION 2. The Office of State Personnel shall conduct a thorough analysis of the use of nonpermanent employees by State agencies, including:

- (1) The number of nonpermanent employees currently working in State agencies.
- (2) The position classifications of nonpermanent employees.
- (3) The average duration of nonpermanent appointments.
- (4) The length of time during which nonpermanent employees have been used to meet agency personnel needs in each category of position for which they have been used.
- (5) The various categories of nonpermanent employees currently being utilized by agencies, including temporary, seasonal, intermittent, time-limited, and contract.
- (6) The number of current nonpermanent employees who are actually seeking full-time permanent employment with full benefits, including retirement and health insurance, versus those who either do not need or are not seeking employment with benefits.

The Office of State Personnel shall use the results of the analysis to develop recommendations for definitions to distinguish various categories of nonpermanent employment and policies regarding the selection, appointment, and duration of various categories of nonpermanent employment. In developing its recommendations, the Office of State Personnel shall seek input from any interested parties outside of State government. The recommendations shall also include a prohibition against the establishment of any new temporary employment services by individual State agencies, other than those in existence on the effective date of this act. The Office of State

Personnel shall submit its findings to the General Assembly, including any recommendations for proposed legislation, on or before December 31, 2008.

To the extent it accepts the recommendations of the Office of State Personnel, the State Personnel Commission shall adopt rules in accordance with Chapter 150B of the General Statutes to implement a plan for nonpermanent employment in State government.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law upon approval of the Governor at 12:12 p.m. on the 11th day of July, 2008.

Session Law 2008-83

H.B. 2523

AN ACT TO AUTHORIZE A SILVER ALERT TO BE ISSUED FOR A PERSON OF ANY AGE, TO AUTHORIZE THE PRODUCTION OF AN EDUCATIONAL VIDEO, AND TO STUDY THE TRAINING NEEDS OF THE JUDICIAL SYSTEM IN RESPONDING TO PERSONS WITH AUTISM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON AUTISM SPECTRUM DISORDER AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-499.8(b) reads as rewritten:

"(b) If the Center receives a report that involves a missing person who is believed to be suffering from dementia or other cognitive impairment, for the protection of the missing person from potential abuse or other physical harm, neglect, or exploitation, the Center shall issue an alert providing for rapid dissemination of information statewide regarding the missing person. The Center shall make every effort to disseminate the information as quickly as possible when ~~the missing person is 18 years of age or older,~~ and the person's status as missing has been reported to a law enforcement agency."

SECTION 2. The UNC-CH Division TEACCH Autism Program (TEACCH), in consultation with the School of Government and the Autism Society of NC, shall develop a video to raise awareness of autism for those involved in government and public service, including information on recognizing the signs and symptoms of autism spectrum disorders, and contacts for further information on appropriate responses to individuals with autism.

SECTION 3. The School of Government, in consultation with the Autism Society of NC, TEACCH, and appropriate legal associations and organizations, shall study the various groups in the judicial system for which additional training may be necessary on the legal issues and appropriate responses to persons with autism. The study shall include judges, district attorneys, defense attorneys, guardians ad litem, victim witness coordinators, magistrates, juvenile court counselors, and any other group in the judicial system identified as needing additional training. The School of Government shall develop a proposal for the most appropriate way to deliver the necessary training to each identified group and determine what funding, if any, is necessary to deliver the training. The School of Government shall report its findings to the Joint Study Committee on Autism Spectrum Disorder and Public Safety no later than October 1, 2008.

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

In the General Assembly read three times and ratified this the 7th day of July, 2008.

Became law upon approval of the Governor at 12:13 p.m. on the 11th day of July, 2008.

Session Law 2008-84

S.B. 1825

AN ACT TO REQUIRE THE HIGHER EDUCATION BOND OVERSIGHT COMMITTEE TO REPORT ANNUALLY AND TO MEET BIANNUALLY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4(d) of S.L. 2000-3 reads as rewritten:

"Section 4.(d) Reports. The Committee shall report ~~semiannually~~annually to the Board of Governors of The University of North Carolina, the State Board of Community Colleges, and the Joint Legislative Commission on Governmental Operations."

SECTION 2. Section 4(e) of S.L. 2000-3 reads as rewritten:

"Section 4.(e) Organization. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The Committee shall meet at least ~~once a quarter~~twice a year upon the joint call of the cochairs. A quorum of the Committee is six members. No action may be taken except by a majority vote at a meeting at which a quorum is present."

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

In the General Assembly read three times and ratified this the 2nd day of July, 2008.

Became law upon approval of the Governor at 12:15 p.m. on the 11th day of July, 2008.

Session Law 2008-85

H.B. 2127

AN ACT TO REPEAL THE LAW ESTABLISHING REGIONAL INTERAGENCY COORDINATING COUNCILS UNDER THE LAWS RELATING TO EARLY INTERVENTION SERVICES FOR CHILDREN FROM BIRTH TO FIVE YEARS OF AGE WITH DISABILITIES, SO AS TO SAVE FUNDS AND AVOID DUPLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-179.5A is repealed.

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, 2008.

Became law upon approval of the Governor at 12:22 p.m. on the 11th day of July, 2008.

Session Law 2008-86

H.B. 2360

AN ACT TO PERMIT NATIONAL BOARD CERTIFIED TEACHERS TO SERVE AS FULL-TIME MENTORS, AS RECOMMENDED BY THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296.2 reads as rewritten:

"§ 115C-296.2. National Board for Professional Teaching Standards Certification.

...

(b) Definitions. – As used in this subsection:

...

(2) A "teacher" is a person who:

a. Either:

1. Is certified to teach in North Carolina; or
2. Holds a certificate or license issued by the State Board of Education that meets the professional license requirement for NBPTS certification;

b. Is a State-paid employee of a North Carolina public school;

c. Is paid on the teacher salary schedule; and

d. ~~Spends at least seventy percent (70%) of his or her work time:~~Fulfills one of the following:

1. ~~Spends at least seventy percent (70%) of his or her work time in~~ classroom instruction, if the employee is employed as a teacher. Most of the teacher's remaining time shall be spent in one or more of the following: mentoring teachers, doing demonstration lessons for teachers, writing curricula, developing and leading staff development programs for teachers; ~~or~~
2. ~~Spends at least seventy percent (70%) of his or her work time in~~ work within the employee's area of certification or licensure, if the employee is employed in an area of NBPTS certification other than direct classroom ~~instruction~~instruction; or
3. Serves as a full-time mentor under subsection (e1) of this section.

...

(e1) Assignment of Teachers With NBPTS Certification to Serve as Full-Time Mentors. – A local board of education may assign teachers with NBPTS certification to serve as full-time mentors as follows:

(1) The maximum number of teachers with NBPTS certification that a local board of education may assign to serve as full-time mentors is the greater of (i) five or (ii) five percent (5%) of the number of teachers with NBPTS certification it has employed during the school year immediately preceding the assignment of teachers as full-time mentors.

(2) A teacher must teach in a classroom for at least two years after receiving NBPTS certification to be eligible for assignment as a full-time mentor.

- (3) A teacher must have completed the mentor training required by the teacher's local school administrative unit to be eligible for assignment as a full-time mentor.
- (4) A teacher may serve as a full-time mentor for up to three consecutive years.
- (5) After service as a full-time mentor, a teacher must teach in a classroom for at least three years to be eligible for reassignment as a full-time mentor.
- (6) A teacher serving as a full-time mentor shall be school-based, work at one or more schools, and mentor each year at least 15 newly hired teachers who are in their first through third year of teaching."

SECTION 2. Teachers with NBPTS certification serving as full-time mentors under G.S. 115C-296.2(e1) shall remain on the NBPTS teacher salary schedule.

SECTION 3. The State Board of Education shall monitor and assess the effectiveness and impact of allowing teachers with NBPTS certification to serve as full-time mentors and shall report its findings to the Joint Legislative Education Oversight Committee prior to April 15, 2010.

SECTION 4. This act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 7th day of July, 2008.

Became law upon approval of the Governor at 12:25 p.m. on the 11th day of July, 2008.

Session Law 2008-87

H.B. 2390

AN ACT TO RAISE THE CEILING ON THE TOTAL AMOUNT OF PERSONAL PROPERTY A GUARDIAN IS ALLOWED TO SELL WITHOUT A COURT ORDER UNDER THE LAWS PERTAINING TO GUARDIANSHIP, AS RECOMMENDED BY THE HOUSE STUDY COMMITTEE ON STATE GUARDIANSHIP LAWS AND THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 35A-1251(17)a. reads as rewritten:

"§ 35A-1251. **Guardian's powers in administering incompetent ward's estate.**

In the case of an incompetent ward, a general guardian or guardian of the estate has the power to perform in a reasonable and prudent manner every act that a reasonable and prudent person would perform incident to the collection, preservation, management, and use of the ward's estate to accomplish the desired result of administering the ward's estate legally and in the ward's best interest, including but not limited to the following specific powers:

- ...
- (17)a. Without a court order to lease any of the ward's real estate for a term of not more than three years, or to sell, lease or exchange any of the ward's personal property including securities, provided that the aggregate value of all items of the ward's tangible personal property sold without court order ~~over the duration of the estate shall not exceed one thousand five hundred dollars (\$1,500).~~ shall not exceed five thousand dollars (\$5,000) per accounting period. When any item of the ward's tangible personal property has a value which when increased by

the value of all other tangible personal property previously sold in the estate without a court order would exceed ~~one thousand five hundred dollars (\$1,500)~~, five thousand dollars (\$5,000) in the current accounting period, a guardian may sell the item only as provided in subdivision (17)b.

...."

SECTION 2. G.S. 35A-1252(14)a. reads as rewritten:

"§ 35A-1252. **Guardian's powers in administering minor ward's estate.**

In the case of a minor ward, a general guardian or guardian of the estate has the power to perform in a reasonable and prudent manner every act that a reasonable and prudent person would perform incident to the collection, preservation, management, and use of the ward's estate to accomplish the desired result of administering the ward's estate legally and in the ward's best interest, including but not limited to the following specific powers:

...

(14)a. Without a court order to lease any of the ward's real estate for a term of not more than three years, or to sell, lease or exchange any of the ward's personal property including securities, provided that the aggregate value of all items of the ward's tangible personal property sold without court order ~~over the duration of the estate shall not exceed one thousand five hundred dollars (\$1,500)~~, shall not exceed five thousand dollars (\$5,000) per accounting period. When any item of the ward's tangible personal property has a value which when increased by the value of all other tangible personal property previously sold in the estate without a court order would exceed ~~one thousand five hundred dollars (\$1,500)~~, five thousand dollars (\$5,000) in the current accounting period, a guardian may sell the item only as provided in subdivision (14)b.

...."

SECTION 3. This act is effective October 1, 2008.

In the General Assembly read three times and ratified this the 2nd day of July, 2008.

Became law upon approval of the Governor at 12:30 p.m. on the 11th day of July, 2008.

Session Law 2008-88

H.B. 2524

AN ACT TO DISAPPROVE A RULE ADOPTED BY THE NORTH CAROLINA BOARD OF AGRICULTURE AND APPROVED BY THE RULES REVIEW COMMISSION, TO REQUIRE THAT ANY RAW MILK DISPENSED AS ANIMAL FEED BE PROPERLY LABELED, AND TO AUTHORIZE THE BOARD OF AGRICULTURE TO EXEMPT UNPASTEURIZED MILK FROM THE PROVISIONS OF THE COMMERCIAL FEED ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 02 NCAC 09E .0116 (Unpasteurized Milk), as adopted by the North Carolina Board of Agriculture on September 7, 2007, and approved by the Rules Review Commission on October 18, 2007, is disapproved.

SECTION 2. G.S. 130A-279 reads as rewritten:**"§ 130A-279. Sale or dispensing of milk.**

Only milk 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. Any raw milk or raw milk product dispensed as animal feed shall include on its label the statement "NOT FOR HUMAN CONSUMPTION" in letters at least one-half inch in height. Any raw milk or raw milk product dispensed as animal feed shall also include on its label the statement "IT IS NOT LEGAL TO SELL RAW MILK FOR HUMAN CONSUMPTION IN NORTH CAROLINA." "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."

SECTION 3. G.S. 106-284.33(4) reads as rewritten:

"(4) The term "commercial feed" means all materials, except whole unmixed seed such as corn, including physically altered entire unmixed seeds when not adulterated within the meaning of G.S. 106-284.38(1), which are distributed for use as feed or for mixing in feed; provided, that the Board by regulation may exempt from this definition, or from specific provisions of this Article, hay, straw, stover, silage, cobs, husks, ~~hulls~~ hulls, unpasteurized milk, and individual chemical compounds or substances which are not intermixed or mixed with other materials, and are not adulterated within the meaning of G.S. 106-284.38(1)."

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

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law upon approval of the Governor at 12:36 p.m. on the 11th day of July, 2008.

Session Law 2008-89

S.B. 236

AN ACT TO AMEND THE PROFESSIONAL HOUSEMOVING STATUTES CONTAINED IN ARTICLE 16 OF CHAPTER 20 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-356 reads as rewritten:**"§ 20-356. Definitions.**

~~"Person" as used in this Article shall mean an individual, corporation, partnership, association or any other business entity. The word "house" as used in this Article shall mean a dwelling, building, or other structure in excess of 15 feet in width; provided that neither mobile homes, nor modular homes or portions thereof, are within this definition when being transported from the manufacturer or from a licensed retail dealer location~~

~~to the first set up site. The word "Department" as used in this Article shall mean the North Carolina Department of Transportation.~~

As used in this Article, the following terms mean:

- (1) Department. – The Department of Transportation.
- (2) House. – A dwelling, building, or other structure in excess of 15 feet in width. Mobile homes, manufactured homes, or modular homes, or portions thereof, are not within this definition when being transported from the manufacturer or from a licensed retail dealer location to the first set-up site.
- (3) Housemover. – A person licensed under this Article.
- (4) Person. – An individual, corporation, partnership, association, or any other business entity.
- (5) Secretary. – The Secretary of the Department of Transportation.
- (6) Unsafe practices. – Any act that is determined by a final agency decision of an enforcing agency or by a court of competent jurisdiction to create a hazard to the motoring public, or any citations under the Occupational Safety and Health Act that have become a final order within the last three years for willful serious violations or for failing to abate serious violations, as defined in G.S. 95-127."

SECTION 2. G.S. 20-358(1) reads as rewritten:

- "(1) The applicant must be at least ~~18~~21 years of age; present acceptable evidence of good character and show sufficient housemoving experience on the application form furnished by the Department. Proof of creditable housemoving experience must be furnished at the time of application for those applicants not previously licensed by the Department. ~~Housemoving~~Creditable housemoving experience means extensive and responsible training gained by the applicant while engaged actively and directly on a full-time basis in the moving of houses and structures on public roads and highways with at least ~~24 months experience~~five years of experience. Examples of the capacity in which a person may work in gaining experience include the following in building moving operations:
- a. Moving superintendent,
 - b. Moving foreman, and
 - c. General mechanic and helper in the housemoving profession or trade.

To comply with the requirement of proof of creditable housemoving experience, each applicant not previously licensed under this Article shall submit to the Department an affidavit from a certified public accountant that the applicant has documented employment records for a period of five continuous years from a person or persons licensed by this State or another state for housemoving. Each applicant not previously licensed under this Article shall also submit to the Department affidavits from a person or persons licensed in this State or another state in housemoving, who have employed the applicant in housemoving, providing in detail the applicant's full-time experience, including any supervisory duties and experience, in housemoving."

SECTION 3. G.S. 20-363 reads as rewritten:

"§ 20-363. Removal and replacement of obstructions.

All obstructions, including mailboxes, traffic signals, signs, and utility lines will be removed immediately prior to and replaced immediately after the move at the expense of the mover, ~~provided that arrangements for and approval from the owner is obtained.~~ mover. Any property, real or personal, to be removed, which is not located in the right-of-way, shall not be removed until the owner is notified and arrangements for and approval from the owner are obtained."

SECTION 4. G.S. 20-371(a) reads as rewritten:

"(a) Any person violating the provisions of this Article or the regulations of the Department governing housemoving shall be guilty of a Class 3 1 misdemeanor which may include a fine of not more than five hundred dollars (\$500.00). misdemeanor."

SECTION 5. Article 16 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-374. Unsafe practices.

(a) If the Department determines that a housemover has engaged in unsafe practices, all licenses, permits, and authorizations issued to the person pursuant to this Article shall be revoked for a period of six months.

(b) Any person whose license, permit, or authorization issued under this Article is revoked pursuant to this section may request a hearing to be held before the Secretary or a person designated by the Secretary. The licensee shall be notified in writing no less than 10 days prior to the hearing of the time and place of the hearing. At the hearing, the parties shall be given an opportunity to present evidence on issues of fact, examine and cross-examine witnesses, and present arguments on issues of law. The decision of the Secretary or of the person designated by the Secretary shall be final. Any person aggrieved by the final decision may seek judicial review of the decision in accordance with the provisions of Article 4 of Chapter 150B of the General Statutes."

SECTION 6. An applicant for a housemoving license under Article 16 of Chapter 20 of the General Statutes with at least 24 months' experience under G.S. 20-358(1) as of December 1, 2008, may be initially licensed without additional experience until December 1, 2011.

SECTION 7. This act becomes effective December 1, 2008, and applies to licenses issued and offenses committed on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law upon approval of the Governor at 12:37 p.m. on the 11th day of July, 2008.

Session Law 2008-90

H.B. 12

AN ACT TO AMEND THE DEFINITION OF "EDUCATIONAL SERVICES" FOR STUDENTS WITH DISABILITIES; TO AMEND THE LAW TO ALLOW A DESIGNEE OR DESIGNEES OF A STUDENT'S IEP TEAM TO EVALUATE THE CONTINUED APPROPRIATENESS OF HOMEBOUND INSTRUCTION FOR DISCIPLINE PURPOSES FOR STUDENTS WITH DISABILITIES AS RECOMMENDED BY THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE; TO ADD A PROTECTION FOR CHILDREN NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON EDUCATION OF STUDENTS WITH DISABILITIES; AND TO DIRECT THE DEPARTMENT OF PUBLIC

INSTRUCTION AND THE STATE BOARD OF EDUCATION TO REPORT ON
CONTESTED CASES BASED ON THE ADDITIONAL PROTECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-106.3(3a) reads as rewritten:

"(3a) 'Educational services' means all of the following:

- a. The necessary instructional hours per week in the form and format as determined by the child's IEP team and consistent with federal and State law. The instruction shall be delivered by an appropriately qualified teacher to the extent required by federal and State law, which requires a free appropriate public education and the opportunity for a sound basic education.
- b. Related services included in the child's IEP.
- c. Behavior intervention services ~~designed to address the behavior violation that caused the disciplinary change of placement in order to prevent a recurrence.~~ to the extent required by federal law."

SECTION 2. G.S. 115C-107.7 reads as rewritten:

"§ **115C-107.7. Discipline and homebound instruction.**

(a) The policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations.

(b) If a change of placement occurs under the discipline regulations of IDEA, a local educational agency shall not assign a student to homebound instruction without a determination by the student's IEP team that the homebound instruction is the least restrictive alternative environment for that student. If it is determined that the homebound instruction is the least restrictive alternative environment for the student, the student's IEP team shall meet to determine the nature of the homebound educational services to be provided to the student. In addition, the continued appropriateness of the homebound instruction shall be evaluated monthly by the ~~head of the student's IEP team.~~ designee or designees of the student's IEP team."

SECTION 3. G.S. 115C-107.7 is amended by adding a new subsection to read:

"(c) A local educational agency shall be deemed to have a 'basis of knowledge' that a child is a child with a disability if, prior to the behavior that precipitated the disciplinary action, the behavior and performance of the child clearly and convincingly establishes the need for special education. Prior disciplinary infractions shall not, standing alone, constitute clear and convincing evidence."

SECTION 4. The Department of Public Instruction and the State Board of Education shall report to the Joint Legislative Education Oversight Committee by January 15, 2011, on the number of contested cases that are filed based on Section 3 of this act and the disposition of those contested cases.

SECTION 5. Section 3 of this act becomes effective January 1, 2009, and expires March 1, 2011. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law upon approval of the Governor at 12:39 p.m. on the 11th day of July, 2008.

Session Law 2008-91**H.B. 133**

AN ACT TO EXEMPT THE USE OF ALL-TERRAIN VEHICLES FOR BEACH DRIVING FROM THE REQUIREMENTS OF ALL-TERRAIN VEHICLE REGULATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-171.22 reads as rewritten:

"§ 20-171.22. **Exceptions.**

(a) The provisions of this Part do not apply to any owner, operator, lessor, or renter of a farm or ranch, or that person's employees or immediate family or household members, when operating an all-terrain vehicle while engaged in farming operations.

(b) The provisions of this Part do not apply to any person using an all-terrain vehicle for hunting or trapping purposes if the person is otherwise lawfully engaged in those activities.

(c) The provisions of G.S. 20-171.19(a) do not apply to any person 16 years of age or older if the person is otherwise lawfully using the all-terrain vehicle on any ocean beach area where such vehicles are allowed by law. As used in this subsection, "ocean beach area" means the area adjacent to the ocean and ocean inlets that is subject to public trust rights. Natural indicators of the landward extent of the ocean beaches include, but are not limited to, the first line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line.

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, 2008.

Became law upon approval of the Governor at 12:41 p.m. on the 11th day of July, 2008.

Session Law 2008-92**S.B. 1687**

AN ACT TO DIRECT THE NORTH CAROLINA PUBLIC HEALTH INCUBATOR PROGRAM TO REPORT ANNUALLY TO THE PUBLIC HEALTH STUDY COMMISSION, AS RECOMMENDED BY THE PUBLIC HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Public Health Incubator Program, initially authorized in Section 10.32 of S.L. 2004-124, within the North Carolina Institute for Public Health shall report by October 1, 2008, and annually thereafter to the Public Health Study Commission on the following:

- (1) The status of its primary mission to support voluntary local health department collaborative efforts, in partnership with the Department of Health and Human Services, Division of Public Health, to address the State's regional health needs.
- (2) Its efforts to address urgent public health needs as identified in the 2008 final report of the Public Health Task Force's Public Health Improvement Plan.

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

In the General Assembly read three times and ratified this the 2nd day of July, 2008.

Became law upon approval of the Governor at 12:43 p.m. on the 11th day of July, 2008.

Session Law 2008-93

H.B. 44

AN ACT TO STRENGTHEN THE LAW RELATED TO VIOLATIONS OF DOMESTIC VIOLENCE PROTECTIVE ORDERS BY INCREASING THE PENALTY FOR REPEAT OFFENDERS AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-4.1(f) reads as rewritten:

"(f) Unless covered under some other provision of law providing greater punishment, any person who knowingly violates a valid protective order as provided in subsection (a) of this section, after having been previously convicted of ~~three~~two offenses under this Chapter, shall be guilty of a Class H felony."

SECTION 2. This act becomes effective December 1, 2008, and applies to offenses committed on or after that date, but offenses committed before that date count in determining the total prior offenses.

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Became law upon approval of the Governor at 12:49 p.m. on the 11th day of July, 2008.

Session Law 2008-94

H.B. 1304

AN ACT TO AUTHORIZE USE OF REMAINING END-OF-YEAR TUITION ASSISTANCE PROGRAM FUNDS FOR REPAYMENT OF OUTSTANDING ELIGIBLE STUDENT LOANS FOR MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 127A-195 reads as rewritten:

"§ **127A-195. Administration and funding.**

(a) The Secretary of Crime Control and Public Safety is charged with the administration of the tuition assistance program under this Article. He may delegate administrative tasks to other persons within the Department of Crime Control and Public Safety as he deems best for the orderly administration of this program.

(b) The Secretary shall determine the eligibility of applicants, select the benefit recipients, establish the effective date of the benefit, and may suspend or revoke the benefit if he finds that the recipient does not maintain an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace, or unlawful assemblies. The Secretary shall maintain such records and shall promulgate such rules and regulations as he deems necessary for the orderly administration of this program. The Secretary may require of business or trade schools or State or private

educational institutions such reports and other information as he may need to carry out the provisions of this Article and he shall disburse benefit payments for recipients upon certification of enrollment by the enrolling institutions.

(c) All tuition benefit disbursements shall be made to the business or trade school or State or private educational institution concerned, for credit to the tuition account of each recipient. Funds disbursed pursuant to subsection (g) of this section shall be made to the student loan creditor concerned to be applied against the outstanding student loans of each National Guard member beneficiary.

(d) The participation by any business or trade school or private educational institution in this program shall be subject to the applicable provisions of this Article and to examination by the State Auditor of the accounts of the benefit recipients attending or having attended such private schools or institutions. The Secretary may defer making an award or may suspend an award in any business or trade school or private educational institution which does not comply with the provisions of this Article relating to said institutions. The manner of payment to any business or trade school or private educational institution shall be as prescribed by the Secretary.

(e) Irrespective of other provisions of this Article, the Secretary may prescribe special procedures for adjusting the accounts of benefit recipients who, for reasons of illness, physical inability to attend classes or for other valid reason satisfactory to the Secretary, may withdraw from any business or trade school or State or private educational institution prior to the completion of the term, semester, quarter or other academic period being attended at the time of withdrawal.

(f) Any balance of the monetary educational assistance grant up to the maximum for the academic year remaining after tuition is paid pursuant to subsection (c) of this section may be disbursed to the recipient as reimbursement for required course books and materials. The manner of obtaining the reimbursement payment for these required books and materials shall be as prescribed by the Secretary.

(g) Any funds not needed to accomplish the other purposes of this Article may be used to help members of the North Carolina National Guard repay outstanding student loans in accordance with rules to be adopted by the Secretary. These rules shall provide that the length of a member's deployment may be considered in determining whether or not, and in what amount, a member receives assistance pursuant to this subsection. There shall be no reimbursement under this subsection for payments already made on student loans, and funds shall not be provided under this subsection for the purpose of paying student loans obtained for courses from which the member withdrew or for which the member did not receive a passing grade. Payments for outstanding loans shall not exceed the maximum benefit available under G.S. 127A-193.

SECTION 2. G.S. 127A-192 reads as rewritten:

"§ 127A-192. Definitions.

(a) Academic Year. – Any period of 365 days beginning with the first day of enrollment for a course of instruction.

~~(a)(b) "Business or Trade School".~~ Business or Trade School. – Any school within the State of North Carolina which is licensed by the State Board of Education and listed by that Board as an approved private business school or an approved private trade school.

~~(b)(c) "Private Educational Institutions".~~ Private Educational Institutions. – Any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within and licensed by the State of North Carolina, which does not operate for

profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of this Article.

(e)(d) "~~Secretary~~". Secretary. – The Secretary of Crime Control and Public Safety or his or her designee.

(d)(e) "~~State Educational Institutions~~". State Educational Institutions. – Any of the constituent institutions of the University of North Carolina, or any community college operated under the provisions of Chapter 115D of the General Statutes of North Carolina.

(e) "~~Academic Year~~". — ~~Any period of 365 days beginning with the first day of enrollment for a course of instruction.~~

(f) Student Loan. – A loan or loans made to eligible students or parents of students to aid in attaining an education beyond the high school level."

SECTION 3. G.S. 127A-193 reads as rewritten:

"§ **127A-193. Benefit.**

The benefit provided under this Article shall consist of a monetary educational assistance grant not to exceed the highest amount charged by a State educational institution per academic year or a lesser amount, as prescribed by the Secretary, to remain within the funds appropriated, to qualifying members of the North Carolina ~~national guard~~. National Guard. ~~Benefits shall be payable for a period of one academic year at a time, renewable at the option of the Secretary.~~ Benefits provided under G.S. 127A-195(g) shall be payable for a period of one year at a time, renewable at the option of the Secretary. All other benefits provided under this Article shall be payable for a period of one academic year at a time, renewable at the option of the Secretary."

SECTION 4. G.S. 127A-194 reads as rewritten:

"§ **127A-194. Eligibility.**

(a) Active members of the North Carolina ~~national guard~~ National Guard who are enrolled or who shall enroll in any business or trade school, private educational ~~institution~~ institution, or State educational institution shall be eligible to apply for this tuition assistance benefit: Provided, that the applicant has a minimum obligation of two years remaining as a member of the ~~national guard~~ National Guard from the end of the academic period for which tuition assistance is provided or that the applicant commit himself or herself to extended membership for at least two additional years from the end of ~~said~~ that academic period.

(b) This tuition assistance benefit shall be applicable to students in the following categories:

- (1) Students seeking to achieve completion of their secondary school education at a community college or technical institute.
- (2) Students seeking trade or vocational training or education.
- (3) Students seeking to achieve a two-year associate degree.
- (4) Students seeking to achieve a four-year baccalaureate degree.
- (5) Students seeking to achieve a graduate degree.

(c) The following persons shall be eligible to apply for disbursements to pay outstanding student loans pursuant to G.S. 127A-195(g):

- (1) Persons described in subsections (a) and (b) of this section.
- (2) Active members of the North Carolina National Guard who were previously enrolled in any business or trade school, private educational institution, or State educational institution, but only if:

- a. The applicant has a minimum obligation of two years remaining as a member of the National Guard from the time of the application; or
- b. The applicant commits himself or herself to extended membership for at least two additional years from the time of the application."

SECTION 5. This act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 30th day of June, 2008.

Became law upon approval of the Governor at 12:50 p.m. on the 11th day of July, 2008.

Session Law 2008-95

S.B. 1669

AN ACT TO CLARIFY THE AUTHORITY OF AND PROVIDE GUIDANCE TO LOCAL COMMUNITY COLLEGE BOARDS OF TRUSTEES IN ADOPTING WRITTEN POLICIES PROHIBITING THE USE OF TOBACCO PRODUCTS IN BUILDINGS, ON COMMUNITY COLLEGE CAMPUSES, AT COMMUNITY COLLEGE-SPONSORED EVENTS, AND IN OR ON OTHER COMMUNITY COLLEGE PROPERTY, AS RECOMMENDED BY THE JUSTUS-WARREN HEART DISEASE AND STROKE PREVENTION TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-498 reads as rewritten:

"§ **130A-498. Local governments may restrict smoking in public places.**

(a) Notwithstanding any other provision of Article 64 of Chapter 143 of the General Statutes to the contrary, a local government may adopt an ordinance, law, or rule restricting smoking in accordance with subsection (b) of this section.

(b) Any local ordinance, law, or rule authorized under this section may restrict smoking only in:

- (1) Buildings owned, leased as lessor, or the area leased as lessee and occupied by local government;
- (2) Building and grounds wherein local health departments and departments of social services are housed;
- (3) Public schools, school facilities, on school campuses, at school-related or school-sponsored events, in or on other school property, public school buses, or at day care centers. Such restrictions may be imposed by local school boards having ownership or jurisdiction over the building, campus, event, property, or vehicle; and
- (4) Any place on a public transportation vehicle owned or leased by local government and used by the public.

(c) As used in this Part, "local government" means any local political subdivision of this State, any airport authority, or any authority or body created by any ordinance, joint resolution, or rules of any such entity. As used in this Part, "local government" does not include community colleges as defined in G.S. 115D-2(2).

(d) As used in this Part, "grounds" means the area located within 50 linear feet of a building wherein a local health department or a local department of social services is housed.

(e) A county ordinance adopted under this section is subject to the provisions of G.S. 153A-122."

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

"§ 115D-20.1. Policy prohibiting tobacco use in community college buildings, grounds, and at community college-sponsored events.

(a) As used in this section:

- (1) "Tobacco product" includes cigarettes, cigars, blunts, bidis, pipes, chewing tobacco, snus, snuff, and any other items containing or reasonably resembling tobacco or tobacco products.
- (2) "Tobacco use" includes smoking, chewing, dipping, or any other use of tobacco products.

(b) Local community college boards of trustees may adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in community college buildings, in community college facilities, on community college campuses, in vehicles owned, leased, or operated by the local community college, and in or on any other community college property owned, leased, or operated by the local community college. The policy may also prohibit the use of all tobacco products by persons attending a community college-sponsored event.

(c) The policy adopted by a local community college board of trustees may include the following elements:

- (1) Adequate notice of the policy to students, parents, the public, and school personnel.
- (2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on community college property.
- (3) Requirements that community college personnel develop plans for successful implementation of and compliance with the policy.
- (4) Permission for tobacco products to be included in instructional or research activities in community college buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

(d) Nothing in G.S. 130A-498, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local community college board of trustees from adopting and enforcing a more restrictive policy on the use of tobacco in community college buildings, in community college facilities, on community college campuses, or at community college-related or community college-sponsored events, and in or on other community college property."

SECTION 3. The North Carolina Tobacco Prevention and Control Branch and the Health and Wellness Trust Fund Commission shall work with local community college boards of trustees to provide assistance with the development and implementation of the policy including providing information regarding smoking cessation and prevention resources.

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

In the General Assembly read three times and ratified this the 2nd day of July, 2008.

Became law upon approval of the Governor at 12:51 p.m. on the 11th day of July, 2008.

Session Law 2008-96**H.B. 2634**

AN ACT TO AMEND THE LAW PROHIBITING HUNTING AND FISHING ON PRIVATE PROPERTY IN CASWELL COUNTY WITHOUT WRITTEN PERMISSION FROM THE LANDOWNER OR LESSEE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2007-264 reads as rewritten:

"SECTION 1. It is unlawful to take wildlife or attempt to take wildlife on the land of another, or to fish on the land of another, without having on one's person while hunting or fishing the written permission, signed and dated for the current hunting or fishing season, of the landowner or lessee, or the landowner's or lessee's designee. The written permission shall not be valid for more than one year and may be valid for a shorter period stated in the permission. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other law enforcement officers with general subject matter jurisdiction. A person shall have written permission to hunt or fish for purposes of this act if a landowner or lessee has granted permission to a hunting club to hunt or fish on the land and the person is carrying both a current membership card demonstrating the person's membership in the hunting club and a copy of valid written permission granted to the hunting club that complies with the requirements of this act."

SECTION 2. This act applies only to Caswell County.

SECTION 3. This act becomes effective October 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-97**S.B. 488**

AN ACT TO AMEND THE CARRBORO CHARTER TO ALLOW THE TOWN TO LIMIT BY ORDINANCE THE AMOUNT THAT PERSONS MAY CONTRIBUTE TO A CANDIDATE, AS LONG AS THE LIMIT IS NO LOWER THAN TWO HUNDRED FIFTY DOLLARS PER ELECTION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2-7 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as added by Section 2 of Chapter 660 of the 1993 Session Laws, is repealed.

SECTION 2. Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, is amended by adding the following section to read:

"Section 2-8. **Limitation on contributions.** (a) Except as provided by G.S. 163-278.13(c), the town may by ordinance limit the amount of contributions which any individual, person, or political committee may contribute to any candidate for town office. The ordinance may not set a limitation which has a dollar amount greater than the dollar amount set in the general law which would apply to elective office in the town. The ordinance may not set a limitation lower than two hundred fifty dollars (\$250.00) per election.

(b) An ordinance setting a limitation for the 2009 regular town election may be adopted at any time after this section becomes law, but expires 60 days prior to opening of filing for the 2011 regular town election, except that such expiration does not make lawful any contribution received before that date in excess of the limitation.

(c) An extension or reenactment of such ordinance, with or without a change of the amount of the limitation may be adopted no earlier than 150 days prior to opening of filing of the 2011 regular town election and no later than 60 days prior to opening of filing for the 2013 regular town election, except that such expiration does not make lawful any contribution received before that date in excess of the limitation.

(d) For each subsequent biennial town election, the rule in subsection (c) of this section applies by adding increments of two years to the dates set in that subsection.

(e) The limitations set under this section also apply to any special election to fill a vacancy under Section 2-2 of this Charter held at a date other than a regular town election.

"Section 2-9. **Definitions.** The definitions in Article 22A of Chapter 163 of the General Statutes apply to Section 2-8 of this Charter. As used in Section 2-8, "candidate" also means a political committee authorized by the candidate for that candidate's election."

SECTION 3. Section 35(b) of Session Law 2007-391 is repealed.

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, 2008.

Became law on the date it was ratified.

Session Law 2008-98

S.B. 2160

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

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 through 32 of Chapter 388 of the 1973 Session Laws, as amended by Chapter 15 of the 1977 Session Laws, Chapter 284 of the 1979 Session Laws, Chapter 647 of the 1981 Session Laws, Chapter 464 of the 1983 Session Laws, Chapter 508 of the 1987 Session Laws, Chapter 793 of the 1989 Session Laws, S.L. 1998-92, S.L. 2003-35, and S.L. 2006-121, read as rewritten:

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

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

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

(b) As of July 1, 1987, and thereafter, any person not covered under (a) above who shall have been regularly and continuously employed full time by the Fire Department of the City of Winston-Salem (hereinafter referred to as the Fire Department), including any Fire Department mechanic or electrician, who shall have

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

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

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

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

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

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

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

Sec. 8. As of September 1, 2001, the secretary of the Association (or the secretary-treasurer if such offices shall be combined into a single office) shall be entitled to receive monthly compensation in an amount to be determined each year by the Trustees. The Trustees, as such, including the chairman and the vice-chairman, shall serve without compensation. The Trustees may authorize reimbursement by the Association to any officer or Trustee of the Association for all expenses incurred by such person in connection with services rendered in behalf of the Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 18. If at any time there shall not be sufficient assets in the retirement fund of the Association to pay fully the persons entitled to benefits provided herein, such persons shall be paid such benefits on a pro rata basis to the extent the assets of such fund will allow, as shall be determined by the Trustees acting upon the advice of the Association's actuary. Effective on or after July 1, 1998, the Trustees shall obtain a written report from the Association's actuary as of July 1 of each year evenly divisible by two, or more frequently if the Trustees deem advisable, setting forth the present value of the assets of the fund and the present value of current liabilities of current retirees.

Sec. 19. (a) Whenever any member of the Association has been employed by the City continuously for a period of at least 30 years, such member may make written

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

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

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

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

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

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

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

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

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

Sec. 20. Whenever any member of the Association becomes totally and permanently unable, because of infirmity or disease affecting mind or body (whether or not induced by injury) to perform his duties for the City, which inability shall be determined by a medical examination by a physician or physicians of good standing and repute selected by the Trustees, he shall be deemed to be a disabled member. If a disabled member has been employed by the City for at least five full years prior to suffering disability, he shall be entitled to retire and receive a monthly benefit payable for the remainder of his life.

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

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

Sec. 21. Any disabled member of the Association who retires under Section 19 hereof and who had not been employed by the City for a period of at least 30 years prior to retirement, shall be subject to call by the Trustees for reexamination by a physician of good standing and repute selected by the Trustees and, if based upon such examination it is determined by the Trustees that such member is able to perform active duties for the City, such member may be reinstated and receive for his services the same compensation paid to other employees of the City of his rank or classification. If such member, upon being called by the Trustees, shall refuse to submit to an examination or shall refuse to be reinstated to active duty in the employ of the City after being found to be able to perform active duty, such benefits as he is then receiving under the provisions of this act shall immediately terminate and his membership in this Association shall automatically terminate. But in the event that such member is physically unable to resume active employment, or in the event he is able and willing to resume active employment but no job with the City is open for him at such time, his pension or compensation shall continue until there shall be an opening for such member and he is reemployed by the City. For the purpose of this Section 21, employment with the City shall mean only employment with the Fire Department or Police Department (but employment with the Police Department shall be included only with regard to any such member who was employed with the Police Department prior to his retirement under Section 20 hereof).

Sec. 22. When any member of the Association shall resign or be dismissed from employment by the City (which for this purpose shall include only employment with the Fire Department or Police Department), he shall receive a sum of money equal to all monies paid into the Association by him. Upon the death of any member of the Association while in the employment of the City, a sum of money equal to all monies paid into the Association by such deceased member shall be paid to the beneficiary or beneficiaries designated in writing by such deceased member, or in default thereof, to

his estate. If, after retirement, a member of the Association shall die before having received an amount equal to his contributions to the Association, there shall be paid to the beneficiary or beneficiaries designated by such member, or in default thereof to his estate, an amount equal to his contributions less the sum of retirement benefits paid to such member. The reimbursements provided in this Section 22 shall be in cash in a lump sum, unless otherwise determined by the Trustees with the consent in writing of the recipient thereof less interest, if any, previously contributed to the Association by the member pursuant to Section 16 or Section 19.

Sec. 23. No amount payable or held by the Association under this act for the benefit of any member or beneficiary thereof shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, nor shall any amount payable or held under this act for the benefit of any member or beneficiary thereof be in anywise liable for his debts, contracts, liabilities, engagements, or torts, nor be subject to any legal process to levy upon or attach, but the provisions of this Section 22 shall not be applicable as regards any dealings with or obligations to the Winston-Salem Firemen's Credit Union.

Sec. 24. Out of the amount paid to the Insurance Commissioner of the State of North Carolina upon the amount of all premiums on fire and lightning policies covering property situated in the corporate limits of the City, the Insurance Commissioner of the State of North Carolina shall pay annually to the Treasurer of the City ninety-five percent (95%), and the Treasurer of the City shall immediately pay over the same to the treasurer of the Association, or if the treasurer of the Association shall so direct, the Treasurer of the City shall pay such amount directly to the custodian.

Sec. 25. No member of this Association or Trustee shall be personally liable in any manner whatsoever to any person, association, firm or corporation by reason of his connection with, or act or acts on behalf of, said Association, unless such act or acts are fraudulently committed.

Sec. 26. If a member of the Association, or an employee of the Fire Department or Police Department who is not a member of the Association due to failure to meet the minimum age requirements of subsection 2(b) hereof, is granted a leave of absence from employment by the City on account of accidental injury or temporary illness, military service during time of active warfare, compulsory military service in time of peace, or other good cause, for the purpose of this act such employee shall be deemed to have remained in the employment of the City during the period of such leave of absence or any extension thereof if he shall return to active service with the City promptly following the end of the period of such leave of absence or extension thereof. During such leave of absence or extension thereof, the Treasurer of the City shall make no deductions from the salary, if any, of such member, and such member shall not otherwise be required to make any contributions to the Association during or with respect to such period.

Sec. 27. If any person entitled to benefits under this act shall be physically or mentally incapable of receiving or acknowledging receipt of such benefits, the Trustees, upon receipt of satisfactory evidence of such incapacity and that another person or institution is maintaining such person entitled to benefits, and that no guardian or committee has been appointed for him, may cause any benefits otherwise payable to him to be made to such person or institution so maintaining him.

Sec. 28. The provisions of this act shall be administered on an equitable and nondiscriminatory basis, it being the intent hereof that where the Trustees are given discretionary powers, such powers shall be exercised in an equitable manner and so as

to prevent discrimination between persons similarly situated. All assets of the Association shall be administered for the exclusive benefit of the members of the Association and their beneficiaries, and as a fund to provide for such members or beneficiaries the benefits provided in this act. It shall be impossible for any part of the principal or income of the retirement fund of the Association to be used for or diverted to purposes other than for the exclusive benefit of the members of the Association or their beneficiaries as provided in this act; except that the Trustees may use such assets to pay the reasonable expenses incurred in administering the said fund and any debts, liabilities or obligations of said fund. The assets and income of the fund shall be exempt from all taxes, including income taxes, imposed by the State of North Carolina or any political subdivision thereof.

Sec. 28A. (a) Upon termination of the Association or upon complete discontinuance of contributions to the Association, the rights of all members of the Association to benefits accrued to the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(b) Forfeitures under the Association may not be applied to increase the benefits that any member would otherwise receive under the Association.

(c) Notwithstanding any provision of the Association to the contrary, the maximum annual benefit payable in the form of a straight life annuity from the Association on behalf of a member, when combined with any benefits from another qualified retirement plan maintained by the Fire Department of the City of Winston-Salem, shall not exceed the amount permitted by section 415 of the Internal Revenue Code. Code, the provisions of which are specifically incorporated by reference into this act.

(d) In addition to the other applicable limitations set forth in this act, and notwithstanding any other provision of this act to the contrary, for plan years beginning on or after January 1, 1996, the annual compensation of each member taken into account under this act shall not exceed the OBRA 1993 annual compensation limit. The OBRA 1993 annual compensation limit is one hundred fifty thousand dollars (\$150,000), as adjusted by the Commissioner for increase in the cost of living in accordance with section 401(a)(17)(B) of the Internal Revenue Code. The cost of living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (the "determination period") beginning in that calendar year. If a determination period consists of fewer than 12 months, the OBRA 1993 annual compensation limit shall be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If compensation for any prior determination period is taken into account in determining a member's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the OBRA 1993 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1996, the OBRA 1993 annual compensation limit is one hundred fifty thousand dollars (\$150,000). Effective for plan years beginning on or after January 1, 2002, the OBRA 1993 annual compensation limit shall be two hundred thousand dollars (\$200,000), as adjusted by the Commissioner for increases in the cost of living in accordance with section 401(a)(17)(B) of the Internal Revenue Code.

(e) This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of this act to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the

manner prescribed by the Trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply for purposes of this subsection:

- (1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
 - a. Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;
 - b. Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; or
 - c. Any ~~hardship~~ ~~distribution~~ ~~described~~ ~~in~~ ~~section~~ ~~401(k)(2)(B)(i)(IV)~~ ~~of~~ ~~the~~ ~~Internal~~ ~~Revenue~~ ~~Code.~~ distribution that is made upon the hardship of the distributee.

Notwithstanding the foregoing, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such a portion may be transferred only to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in section 401(a) or section 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of that distribution that is includible in gross income and the portion of that distribution that is not so includible.

- (2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. An eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Internal Revenue Code and an eligible plan under section 457(b) of the Internal Revenue Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state, and that agrees to separately account for amounts transferred into that plan from the Association. The definition of eligible plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code. Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA as described in section 408A of the Internal Revenue Code.
- (3) Distributee. A distributee includes a member or former member of the Association. In addition, the surviving spouse of a member or former

member is a distributee with regard to the interest of the member or former member.

- (4) Direct rollover. A direct rollover is a payment by the Association to the eligible retirement plan specified by the distributee.
- (5) Rollovers by nonspouse beneficiaries. Notwithstanding anything in this subsection to the contrary, effective January 1, 2007, the benefits of nonspouse beneficiaries may be transferred in a direct rollover to an inherited individual retirement account or an inherited individual retirement annuity ("inherited IRA"). Once in the inherited IRA, distributions will be made in compliance with the minimum distribution rules of section 401(a)(9) of the Internal Revenue Code that apply following the death of a member.

Sec. 28B. (a) This section shall apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. The requirements of this section shall take precedence over any inconsistent provisions of the Association. All distributions required under this section shall be determined and made in accordance with the Treasury Regulations under section 401(a)(9) of the Internal Revenue Code, which are specifically incorporated by reference into this act. Notwithstanding the other provisions of this section, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Association that relate to section 242(b)(2) of TEFRA.

(b) Time and Manner of Distribution. –

- (1) Required beginning date. – The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date.
- (2) Death of member before distributions begin. – If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - a. If the member's surviving spouse is the member's sole designated beneficiary, as defined in section 28(e)(1), then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70 ½, if later.
 - b. If the member's surviving spouse is not the member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
 - c. If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
 - d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin,

the provisions of this subdivision, except for sub-subdivision a. of this subdivision, will apply as if the surviving spouse were the member.

For purposes of this subdivision and of subsection (d) of this section, distributions are considered to begin on the member's required beginning date, or if sub-subdivision d. of this subdivision applies, the date distributions are required to begin to the surviving spouse under sub-subdivision a. of this subdivision. If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under sub-subdivision a. of this subdivision, the date distributions are considered to begin is the date distributions actually commence.

(3) Forms of distribution. – Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single lump sum on or before the required beginning date, as of the first distribution calendar year, as defined in subdivision (2) of subsection (e) of this section, distributions will be made in accordance with subsections (b), (c), and (d) of this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions under that annuity shall be made in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and the Treasury Regulations.

(b) Determination of Amount to be Distributed Each Year. –

(1) General annuity requirements. – If the member's interest is paid in the form of annuity distributions from the Association, payments under the annuity will satisfy the following requirements:

- a. The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;
- b. The distribution period shall be over a life, or lives, or over a period certain not longer than the period described in subsection (c) or (d) of this section;
- c. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- d. Payments will either not increase or will increase only as follows:
 1. By an annual percentage increase that does not exceed the annual percentage increase in an eligible cost-of-living index, as defined in subdivision (3) of subsection (e) of this section, for a 12-month period ending in the year during which the increase occurs or the prior year;
 2. By a percentage increase that occurs at specified times and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index since the annuity starting date, or if later, the date of the most recent percentage increase. However, in cases providing such a cumulative increase, an actuarial

- increase may not be provided to reflect the fact that increases were not provided in the interim years;
3. To the extent of the reduction in the amount of the member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subsection (c) of this section dies or is no longer the member's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(c) of the Internal Revenue Code.
 4. To pay increased benefits that result from an amendment to the Association; or
 5. To allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the member's death.
- (2) Amount required to be distributed by required beginning date. – The amount that must be distributed on or before the member's required beginning date, or if the member dies before distributions begin, the date distributions are required to begin under sub-subdivisions a. or b. of subdivision (2) of subsection (a) of this section is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, such as bimonthly, monthly, semiannually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.
- (3) Additional accruals after first distribution calendar year. – Any additional benefits accruing to the member in a calendar year after the first distribution calendar shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (c) Requirements for Annuity Distributions that Commence during Member's Lifetime. –
- (1) Joint life annuities where the beneficiary is not the member's spouse. – If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated beneficiary after the member's death must not at any time exceed the applicable percentage of the annuity payment for that period that would have been payable to the member using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury Regulations. The applicable percentage is based upon the adjusted age difference between the member and the beneficiary. The adjusted age difference between the member and the beneficiary is determined by first calculating the excess of the age of the member over the age of the beneficiary based upon their ages on their birthdays in a calendar year. Then, if the member is younger than age 70, the age

difference determined in the previous sentence is reduced by the number of years that the member is younger than age 70 on the member's birthday in the calendar year that contains the annuity starting date. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence shall apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

- (2) Period certain annuities. – Unless the member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime may not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age 70, the applicable distribution period for the member is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the member as of the member's birthday in the year that contains the annuity starting date. If the member's spouse is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the member's applicable distribution period, as determined under subsection (b) of this section, or the joint life and last survivor expectancy of the member and the member's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(d) Requirements for Minimum Distributions where Member Dies before Date Distributions Begin –

- (1) Member survived by designated beneficiary. – If the member dies before the date distribution of the member's interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in sub-subdivision a. or b. of subdivision (2) of subsection (a) of this section, over the life of the designated beneficiary or over a period certain not exceeding:
- a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy, as defined in subdivision (4) of subsection (e) of this section, of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or
 - b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's

- birthday in the calendar year that contains the annuity starting date.
- (2) No designated beneficiary. – If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.
- (3) Death of surviving spouse before distributions to surviving spouse begin. – If the member dies before the date distribution of the member's interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to subdivision (1) of subsection (a) of this section.
- (e) Definitions. –
- (1) Designated beneficiary. – The individual who is designated as the beneficiary under the Association in accordance with section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4 of the Treasury Regulations.
- (2) Distribution calendar year. – A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the member's required beginning date. For distributions beginning after the member's death, the first distribution date is the calendar year in which distributions are required to begin pursuant to subsection (a) of this section.
- (3) Eligible cost-of-living index. – One of the following:
- a. A consumer price index that is based on prices of all items, or all items excluding food and energy, and is issued by the Bureau of Labor Statistics, including an index for a specific population, such as urban consumers or urban wage earners and clerical workers, and an index for a geographic area or areas, such as a given metropolitan area or state.
 - b. A percentage adjustment based on a cost-of-living index described in sub-subdivision a. of this subdivision, or a fixed percentage if less. In any year in which the cost-of-living index is lower than the fixed percentage, the fixed percentage may be treated as an increase in an eligible cost-of-living index, provided it does not exceed the sum of:
 1. The cost-of-living index for that year; and
 2. The accumulated excess if the annual cost-of-living index from each prior year over the fixed annual percentage used in that year, reduced by any amount previously used under this sub-subdivision.
 - c. A percentage adjustment based on the increase in compensation for the position held by the member at the time of retirement,

and provided under either the terms of a governmental plan within the meaning of section 414(d) of the Internal Revenue Code or under the terms of a nongovernmental plan in effect on April 17, 2002.

- (4) Life expectancy. – Life expectancy as computed by use of the Single Life Table in section 1. 401(a)(9)-9 of the Treasury Regulations.
- (5) Required beginning date. – April 1 of the calendar year following the later of (i) the calendar year in which the member attains age 70 ½; or (ii) the calendar year in which the member retires. Notwithstanding the foregoing, the required beginning date of a member who is a five percent (5%) owner, as defined in section 416 of the Internal Revenue Code, shall be April 1 of the calendar year following the calendar year in which the member attains age 70 ½. In the event that, as of the required beginning date, the amount of the payment to commence cannot be determined or the recipient of the payment cannot be located after a reasonable effort has been made to locate the recipient, payments retroactive to the required beginning date shall be made within 60 days after the amount has been determined or the recipient has been located, whichever is applicable.

Sec. 29. The fiscal year of the Association shall end on June 30 of each year.

Sec. 30. Throughout this act, use of the masculine pronoun shall include the feminine.

Sec. 31. If any part or section of this act shall be declared unconstitutional or invalid by the Supreme Court of North Carolina or any other court of last resort of competent jurisdiction it shall in no wise affect the remainder of this act, and the remainder shall remain in full force and effect.

Sec. 32. All the laws and clauses of laws in conflict with the provisions of this act are hereby repealed."

SECTION 2. None of the provisions of this act shall create an additional liability for the Winston-Salem Firemen's Retirement Fund Association unless sufficient funds are available to pay fully for the liability.

SECTION 3. This act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-99

H.B. 2093

AN ACT TO ADD THE TOWNS OF LOWELL AND MANTEO TO THE LIST OF CITIES WHERE MUNICIPAL EMPLOYEES MAY USE ALL-TERRAIN VEHICLES ON HIGHWAYS WITH POSTED SPEED LIMITS OF THIRTY-FIVE MILES PER HOUR OR LESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-171.24(f) reads as rewritten:

"(f) This section applies to the Towns of Ansonville, Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas, Davidson, Duck, Emerald Isle, Franklin, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Lowell, Manteo, Murphy, Nags Head, North Topsail Beach, Oakboro, Ocean Isle Beach, Pine Knoll Shores, Stanley, Surf

City, Sylva, Topsail Beach, and Wrightsville Beach, the Cities of Albemarle, Belmont, Cherryville, Gastonia, Kings Mountain, Mount Holly, and Rockingham and the Counties of Cleveland, Currituck, Gaston, Surry, and Wilkes only."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-100

H.B. 2155

AN ACT TO ESTABLISH A NO-WAKE SPEED ZONE NEAR THE TOWNS OF HOLDEN BEACH AND OAK ISLAND.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to operate a vessel at greater than a no-wake speed in the Intracoastal Waterway adjacent to the Town of Holden Beach and the Town of Oak Island within 1,000 feet of the center of the intersection of the inlet at the Lockwood Folly River. No-wake speed is idle speed or a slow speed creating no appreciable wake.

SECTION 2. With regard to marking the no-wake speed zone established in Section 1 of this act, the Town of Holden Beach, Town of Oak Island, Brunswick County, or their designees may place and maintain the markers in accordance with the United States Aids to Navigation System (USATONS) and any supplementary standards for such system adopted by the Wildlife Resources Commission. Markers of the no-wake speed zone shall be buoys, floating signs, or fixed signs, as appropriate, placed in the water and must be sufficient in number and size as to give adequate warning of the no-wake speed zone to the vessels approaching from various directions.

SECTION 3. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

SECTION 4. Violation of Section 1 of this act is a Class 3 misdemeanor.

SECTION 5. This act applies only to the Town of Holden Beach, the Town of Oak Island, and the surrounding area as described in this act.

SECTION 6. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-101

H.B. 2488

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO ALLOW ADJUSTMENT OF THE GEOGRAPHIC SCOPE OF THE CITY'S SMALL BUSINESS ENTERPRISE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 8.88 of the Charter of the City of Charlotte, being S.L. 2000-26, as amended by S.L. 2002-91, reads as rewritten:

"Section 8.88. **Small Business Enterprise Program.**

(a) The City may establish a race and gender neutral small business enterprise program to promote the development of small businesses ~~in the Charlotte Metropolitan Statistical Area~~ within the Charlotte Regional Area, and to enhance opportunities for small businesses to participate in City contracts. The City may define the term 'small business enterprise' as appropriate and consistent with the City's contracting practices. The City may establish bid and proposal specifications that include subcontracting goals and good faith efforts requirements to enhance participation by small business enterprises in City contracts. Notwithstanding G.S. 143-129 and G.S. 143-131, the City may consider a bidder's efforts to comply with small business enterprise program requirements in its award of City contracts, and if a bidder is determined to have failed to comply with said requirements, the City may within its discretion, refuse to award a contract to such bidder. As used in this section, "Charlotte Regional Area" means: (i) the Metropolitan Statistical Area that includes Charlotte, North Carolina, as defined by the United States Office of Management and Budget from time to time; and (ii) such additional counties that the City may designate from time to time for inclusion within the small business enterprise program, based on the City's periodic assessment of where small business development initiatives will promote economic development within the City.

(b) The small business enterprise program authorized by this section is intended to supplement and not replace the requirements of G.S. 143-128.2, 143-131, or 143-135.5. Any goals or efforts established to achieve minority and women business participation consistent with said provisions of law shall take precedence over goals for small business enterprise participation established under the program authorized by this section. A small business enterprise program established pursuant to this section shall be deemed consistent with the public policy of the State of North Carolina to promote and utilize small and underutilized business enterprises as set forth in G.S. 143-128.2, 143-128.3, and 143-135.5."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-102

H.B. 2760

AN ACT TO ESTABLISH A SEASON FOR TAKING FOXES WITH WEAPONS AND BY TRAPPING IN STOKES COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season from the first Saturday in January through the last Saturday in January of each year for taking foxes with weapons and by trapping, with no tagging requirements prior to or after sale.

SECTION 2. No bag limit applies to foxes taken under this act.

SECTION 3. G.S. 113-291.4(f1) reads as rewritten:

"(f1) In those counties in which open seasons for taking foxes with weapons and by trapping were established between June 18, 1982, and July 1, 1987, in accordance with the procedure then set forth in subsection (f) of this section, the Wildlife Resources Commission is authorized to continue such seasons from year to year so long as the fox populations of such counties remain adequate to support the resulting harvest. The

counties referred to in this subsection are as follows: Caswell, Clay, Graham, Henderson, Hyde, Macon, ~~Stokes~~ and Tyrrell."

SECTION 4. This act applies only to Stokes County.

SECTION 5. This act becomes effective October 1, 2008.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-103

H.B. 2784

AN ACT CONCERNING INVESTMENTS OF THE CITY OF FAYETTEVILLE
AND THE PUBLIC WORKS COMMISSION OF FAYETTEVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter VIII of the Charter of the City of Fayetteville, being Chapter 557 of the 1979 Session Laws, as amended, is amended by adding the following new Article to read:

"ARTICLE 9.

"INVESTMENT AUTHORITY.

"Sec. 8.35. **Certain investments.** In addition to the authority granted in G.S. 159-30, the City may invest and reinvest any of the City's employee benefit funds held in trust, risk reserve funds, cemetery perpetual care funds, and capital reserves, as designated from time to time by the City Council, in one or more of the types of securities or other investments authorized by State law for the State Treasurer in G.S. 147-69.2(b)(1)-(6) and (8)."

SECTION 2. Chapter VI of the Charter of the City of Fayetteville, being Chapter 557 of the 1979 Session Laws, as amended, is amended by adding the following new section to read:

"Sec. 6.21. **Investment Authority.** In addition to the authority granted in G.S. 159-30, the Public Works Commission may invest and reinvest any of the Commission's employee benefit funds held in trust, risk reserve funds, and capital reserves, as designated from time to time by the Commission, in one or more of the types of securities or other investments authorized by State law for the State Treasurer in G.S. 147-69.2(b)(1)-(6) and (8)."

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, 2008.

Became law on the date it was ratified.

Session Law 2008-104

H.B. 472

AN ACT TO MOVE ELECTIONS FOR THE TOWN OF ROPER TO THE
TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER IN
ODD-NUMBERED YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of the Charter of the Town of Roper, being Chapter 24, Private Laws of 1907, reads as rewritten:

"Sec. 3. That the officers of said corporation shall consist of a mayor, three commissioners, regular and special policemen, clerk and treasurer, and such other officers as the town may elect, ~~and the following named persons shall fill the offices of mayor and commissioners from their qualification until the first Tuesday after the first Monday in May, one thousand nine hundred and seven, and until their successors are elected and qualified: For mayor, Thomas W. Blount, and for commissioners, L.G. Roper, N.B. Mizell, and W.C. Thompson.~~ appoint. Elections for mayor and commissioner shall be determined by the nonpartisan plurality method in accordance with G.S. 163-292 and shall be held at the time set forth in G.S. 163-279(a)(1)."

SECTION 2. This act applies to elections held in 2009 and thereafter.

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, 2008.

Became law on the date it was ratified.

Session Law 2008-105

H.B. 2267

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE VILLAGE OF WHISPERING PINES.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Village of Whispering Pines is revised and consolidated to read as follows:

"THE CHARTER OF THE VILLAGE OF WHISPERING PINES

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND VILLAGE BOUNDARIES.

"Section 1.1 **Incorporation.** The Village of Whispering Pines, North Carolina, in Moore County, and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name and style of the Village of Whispering Pines, hereinafter at times referred to as the Village.

"Sec. 1.2 **Corporate Powers.** The Village shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Village of Whispering Pines specifically by this Charter or upon municipal corporations by general law. The term general law is employed herein as defined in G.S. 160A-1.

"Sec. 1.3 **Village Boundaries.** The Village boundaries shall be those existing at the time of ratification of this charter, as the same are set forth on the official map of the Village, and as the same may be altered from time to time in accordance with law. An official map of the Village, showing the current boundaries shall be maintained permanently in the Office of the Village Clerk and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Village shall be made, and copies shall be filed in the offices of the Secretary of State, the Moore County Register of Deeds, and the Moore County Board of Elections.

"ARTICLE II. MAYOR AND VILLAGE COUNCIL.

"Section 2.1. **Governing Body.** The Village Council elected and constituted as herein set forth, shall be the governing body of the Village. On behalf of the Village, and in conformity with applicable laws, the Village Council may provide for the

exercise of all municipal powers, and shall be charged with the general government of the Village.

"Sec. 2.2. **Village Council; Composition; Terms of Office.** The Village Council shall be composed of five members, each of whom shall be elected for terms of four years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by the Council from among its members in accordance with general law for a term of two years. The Mayor shall be the official head of the Village, preside at meetings of the Village Council, and exercise such powers and perform such duties as presently are or hereafter may be conferred upon the Mayor by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Village. The Mayor shall have the same voting power as the other Council members in regards to voting on measures coming before the Council; however, the Mayor shall not have veto power.

"Sec. 2.4. **Mayor Pro Tempore.** In accordance with general law, the Village Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Village Council.

"Sec. 2.5. **Meetings of the Council.** In accordance with general law, the Council shall meet regularly at least once a month at such times and places as the Council may prescribe. Special and emergency meetings may be held as provided by general law.

"Sec. 2.6. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, and proving of Council Ordinances and Resolutions shall be in accordance with general law. All Ordinances and Resolutions shall be effective upon adoption unless otherwise provided.

"Sec. 2.7. **Voting Requirements; Quorum.** Official actions of the Council and all votes shall be taken in accordance with applicable voting and quorum provisions of general law, particularly G.S. 160A-74 and G.S. 160A-75, except that any ordinance or any action having the effect of an ordinance may be finally adopted on the date on which it is introduced if the Council has first held a public hearing on the measure.

"Sec. 2.8. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council Members shall be in accordance with general law. Vacancies that occur in any elective office of the Village shall be filled by appointment by majority vote of the remaining members of the Village Council as provided in G.S. 160A-63.

"Sec. 2.9. **Prohibitions.** Except where authorized by law, no Council member shall hold any Village employment during the term for which the member was elected to Council.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. The Village Council shall be elected by the voters of the entire Village on an at-large basis. The municipal elections in the Village of Whispering Pines shall be nonpartisan and decided by a simple plurality.

"Sec. 3.2. **Election of the Village Council.** The terms of the five members elected to the Village Council shall be staggered. At the regular municipal election to be held in 2009, and every four years thereafter, three council members shall be elected to serve

four-year terms to fill the seats of those officers whose terms are then expiring. In the regular municipal election of 2011, and every four-years thereafter, two council members shall be elected to serve four-year terms to fill the seats of those officers whose terms are then expiring.

"Sec. 3.3. **Special Elections and Referendums.** Special elections and referendums may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Village shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Village Manager; Appointment; Qualifications; Compensation.** The Village Council shall appoint a Village Manager who shall serve at the pleasure of the Council. The Village Manager shall be the administrative head of the Village government responsible for the proper administration of all departments of the Village. The Village Manager shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practice with respect to the duties of a Town or City Manager. The Village Manager shall receive such salary as the Council shall establish.

"Sec. 4.3. **Village Attorney.** The Council shall appoint a Village Attorney, licensed to practice in the State of North Carolina, to serve at its pleasure. It shall be the duty of the Village Attorney to represent the Village, be its legal advisor, advise Village officials, and perform other duties required by law or as the Council may direct.

"ARTICLE V. MISCELLANEOUS REGULATIONS.

"Section 5.1. **Trespassing on Village Property.** The Village may, by ordinance, make it a misdemeanor for any person to refuse to vacate any land, building, lake, or other facility owned, leased, otherwise occupied, or used by, or under the possession of, the Village, when directed to do so by any police officer, Village administrative official, or employee in charge of such land.

"Sec. 5.2. **Golf Cart Regulation.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Village of Whispering Pines may, by ordinance, regulate the operation of golf carts on any public street or road within the Village. By ordinance, the Village may require the registration of golf carts, specify the persons authorized to operate golf carts, and specify the required equipment, load limits, and hours and methods of operation of the golf carts.

"Sec. 5.3. **Board of Adjustment.**

(a) The Village Council may create a Board of Adjustment in accordance with the provisions of Article 19 of Chapter 160A of the General Statutes. Such Board shall be subject to all provisions of general law except that the Village Council may authorize the Board of Adjustment by ordinance to decide any matter before it either (i) upon a vote of the majority of the members present at a meeting and not excused from voting so long as a quorum is present, or (ii) upon vote of four-fifths majority of the members present at a meeting and not excused from voting so long as a quorum is present.

(b) The Council may provide by ordinance that any person aggrieved by any decision of the Board of Adjustment may appeal such decision to the Village Council in accordance with procedures and within times prescribed by ordinance. The ordinance may provide that such appeal shall be in lieu of seeking review of the Board of Adjustment's decision in superior court. Such appeal shall be heard by the Council de novo, i.e., the Council shall consider the matter as if it had not been considered by the

Board of Adjustment. The Council shall decide the appeal by a majority of those present and not excused from voting. The decision of the Council on such matter shall be subject to review by the superior court in the nature of certiorari."

SECTION 2. The purpose of this act is to revise the Charter of the Village of Whispering Pines and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 3.(a) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

- (1) Chapter 72 of the 1969 Session Laws (current charter).
- (2) Chapter 372 of the 1969 Session Laws (technical correction).
- (3) Section 1 of S.L. 2002-82 (golf carts, consolidated in Section 5.2 of Charter).

SECTION 3.(b) This act does not affect any of the following acts:

- (1) Chapter 222 of the 1973 Session Laws, as amended (annexation).
- (2) Chapter 1127 of the 1979 Session Laws (relating to ABC funds).

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the Village of Whispering Pines and all existing rules or regulations of departments or agencies of the Village of Whispering Pines not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Village of Whispering Pines or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superseded.

SECTION 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-106

H.B. 2779

AN ACT TO AMEND THE LAW PROHIBITING THE TAKING OF DEER FROM A BOAT IN BERTIE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of S.L. 2001-367 reads as rewritten:

"SECTION 5. It is unlawful to take deer from any vessel in the Roanoke River above the U.S. Highway 17 bridge, or its tributaries, except for those portions of the river and its tributaries that are adjacent to the border with Washington County, whether the vessel is under power or not, except that (i) a vessel may be used for transportation to and from otherwise lawful hunting stands upon land owned or leased by a person or upon which a person has written permission to ~~hunt~~ hunt, and (ii) a person may retrieve hunting dogs using a vessel in the river and its tributaries provided that no firearm is readily available to the person."

SECTION 2. This act applies only to Bertie County.

SECTION 3. This act becomes effective October 1, 2008, 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, 2008.

Became law on the date it was ratified.

Session Law 2008-107

H.B. 2436

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL APPROPRIATIONS ACT OF 2007, TO AUTHORIZE INDEBTEDNESS FOR CAPITAL PROJECTS, AND TO MAKE VARIOUS TAX LAW AND FEE CHANGES.

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 State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year as provided in G.S. 143C-1-2(b).

TITLE

SECTION 1.2. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2008."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2009, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2008-2009 fiscal year.

Current Operations – General Fund	FY 2008-2009
EDUCATION	
Community Colleges System Office	\$ 33,639,698
Department of Public Instruction	93,731,253
University of North Carolina – Board of Governors	
Appalachian State University	(175,179)
East Carolina University	
Academic Affairs	1,665,101
Health Affairs	0
Elizabeth City State University	0
Fayetteville State University	(250,409)
NC Agricultural and Technical University	(476,363)
North Carolina Central University	0
North Carolina School of the Arts	0
North Carolina State University	
Academic Affairs	(622,928)
Agricultural Extension	0
Agricultural Research	0
University of North Carolina at Asheville	(26,836)
University of North Carolina at Chapel Hill	
Academic Affairs	(589,752)
Health Affairs	(736,357)
Area Health Education Centers	0
University of North Carolina at Charlotte	(756,504)
University of North Carolina at Greensboro	0
University of North Carolina at Pembroke	(59,019)
University of North Carolina at Wilmington	(752,940)
Western Carolina University	(159,665)
Winston-Salem State University	0
General Administration	0
University Institutional Programs	74,741,366
Related Educational Programs	(44,990,000)
North Carolina School of Science and Mathematics	0
UNC Hospitals at Chapel Hill	0
Total University of North Carolina – Board of Governors	\$ 26,810,515

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Division of Central Management and Support	\$ (9,809,966)
Division of Aging and Adult Services	2,500,000
Division of Services for the Blind and Deaf/Hard of Hearing	75,000
Division of Child Development	(6,102,422)
Office of Education Services	698,940
Division of Health Service Regulation	822,028
Division of Medical Assistance	(210,822,007)
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	21,347,833
NC Health Choice	10,056,864
Division of Public Health	6,805,537
Division of Social Services	1,144,782
Division of Vocation Rehabilitation	(2,000,000)
Total Health and Human Services	\$ (185,283,411)

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	\$ 4,960,589
Department of Commerce	
Commerce	7,974,970
Commerce State-Aid	12,901,578
NC Biotechnology Center	3,844,166
Rural Economic Development Center	53,756,974
Department of Environment and Natural Resources	
Environment and Natural Resources	12,273,734
Clean Water Management Trust Fund	0
Department of Labor	901,392

JUSTICE AND PUBLIC SAFETY

Department of Correction	\$ 289,817
Department of Crime Control and Public Safety	2,580,175
Judicial Department	(1,558,255)
Judicial Department – Indigent Defense	(435,057)
Department of Justice	(426,758)
Department of Juvenile Justice and Delinquency Prevention	20,194,280

GENERAL GOVERNMENT

Department of Administration	\$ 1,277,048
Office of Administrative Hearings	313,544
Department of State Auditor	(283,938)
Office of State Controller	(110,940)
Department of Cultural Resources	
Cultural Resources	3,785,367
Roanoke Island Commission	(15,000)
State Board of Elections	582,934
General Assembly	(881,000)
Office of the Governor	
Office of the Governor	(84,205)
Office of State Budget and Management	15,242
OSBM – Reserve for Special Appropriations	16,950,000
Housing Finance Agency	12,000,000
Department of Insurance	
Insurance	633,492
Insurance – Volunteer Safety Workers' Compensation	(1,150,000)
Office of Lieutenant Governor	0
Department of Revenue	(1,415,864)
Department of Secretary of State	135,771
Department of State Treasurer	
State Treasurer	763,829
State Treasurer – Retirement for Fire and Rescue Squad Workers	1,027,851

TRANSPORTATION

Department of Transportation	0
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RESERVES, ADJUSTMENTS AND DEBT SERVICE

Compensation Increases	\$ 368,844,588
Salary Adjustment Fund 2007-2009 Biennium	0
Teachers' & State Employees' Retirement Contributions	30,237,400
Hospitalization Reserve	(5,000,000)
Reserve for Eliminated Positions	0

Grant to Counties for Teachers' Personal Leave Day	5,000,000
Contingency and Emergency Fund	0
Information Technology Fund	0
Job Development Investment Grants Reserve	15,000,000
North Carolina Master Address Dataset	1,000,000
Criminal Justice Data Integration	5,000,000
Pending Gang Prevention Legislation (HB 274)	10,000,000
Task Force on Preventing Pesticide Exposure	357,055
Debt Service	
General Debt Service	(17,500,000)
Federal Reimbursement	0
TOTAL CURRENT OPERATIONS – GENERAL FUND	\$ 532,638,834

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) Section 2.2(a) of S.L. 2007-323 is repealed. The General Fund availability used in adjusting the 2008-2009 budget is shown below:

	FY 2008-2009
Unappropriated Balance from FY 2007-08, S.L. 2007-323	\$ 270,504,098
Net Adjustment – S.L. 2007-540	(1,000,000)
Adjustment from Estimated to Actual 2007-2008	
Beginning Unreserved Balance	47,867,864
Projected Reversions from FY 2007-2008	170,000,000
Projected Overcollections from FY 2007-2008	88,700,000
Less: Credit to Repairs and Renovation Reserve Account	69,839,238
Beginning Unreserved Fund Balance	\$ 506,232,724
 Revenues Based on Existing Tax Structure	 \$ 19,903,800,000
 Nontax Revenues	
Investment Income	\$ 247,300,000
Judicial Fees	204,800,000
Disproportionate Share	100,000,000
Insurance	62,900,000
Other Nontax Revenues	160,600,000
Highway Trust Fund Transfer	172,500,000
Highway Fund Transfer	17,600,000
Subtotal Nontax Revenues	\$ 965,700,000
 Total General Fund Availability	 \$ 21,375,732,724
 Adjustments to Availability: 2008 Session	
Adjustments for Economic Uncertainty	\$ (45,000,000)
Extend Sunset for State Ports Tax Credit	(1,000,000)
Extend Credit for Research & Development	(1,000,000)
Modify Estate Tax Law	(2,000,000)
Exempt Disaster Assistance Debit Sales	(500,000)
Sales Tax Holiday for Certain Energy Star Rated Appliances	(1,400,000)
Extend Sunset for Small Business Employee	

Health Benefits Tax Credit	(8,500,000)
State Sales Tax Exemption for Baked Goods Sold By Artisan Bakeries	(1,600,000)
Small Businesses Protection Act	(2,200,000)
Excise Tax on Machinery Refurbishers	(300,000)
Expand Film Industry Credit and Extend Sunset	(100,000)
Expand Renewable Energy Tax Credit	(100,000)
Reserve for Tax Relief	(700,000)
Health Care Facility Construction Project Fee Service Regulation Fee Increase	822,028
Adjust Fee Receipts for Asbestos Hazard Management Program	71,615
Adjust Securities Filing Fee	1,993,500
Reduce Transfer to Highway Trust Fund	(25,000,000)
Transfer from Disaster Relief Reserve (Western NC Disasters)	26,000,000
Transfer from NC Rx Unexpended Balance	3,500,000
Transfer from Tobacco Trust Fund	5,000,000
Transfer from Health & Wellness Trust Fund	5,000,000
Transfer from Coaching Scholarship Fund	267,000
Transfer from Principal Fellows Trust Fund	1,000,000
Transfer from NC Community College System Computer Information System (CIS) Fund Balance	4,500,000
Transfer from Focused Industrial Training Unexpended Balance	783,246
Transfer from Disproportionate Share Reserve	19,300,000
Adjust Transfer from Insurance Regulatory Fund	633,492
Adjust Transfer from Treasurer's Office	763,829
Subtotal Adjustments to Availability: 2008 Session	\$ (19,765,290)
Revised General Fund Availability for 2008-2009 Fiscal Year	\$ 21,355,967,434
Less: Total General Fund Appropriations for 2008-2009 Fiscal Year	\$ (21,355,967,434)
Unappropriated Balance Remaining	0

SECTION 2.2.(b) Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer sixty nine million eight hundred thirty nine thousand two hundred thirty-eight dollars (\$69,839,238) from the unreserved fund balance to the Repairs and Renovations Reserve Account on June 30, 2008. This subsection becomes effective June 30, 2008.

SECTION 2.2.(c) Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2008-2009 fiscal year to be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(c1) Notwithstanding G.S. 143C-4-2, the State Controller shall not transfer any funds from the unreserved fund balance to the Savings Reserve Account on June 30, 2008.

SECTION 2.2.(d) Section 2.2.(d) of S.L. 2007-323 reads as rewritten.

"**SECTION 2.2.(d)** Notwithstanding the provisions of G.S. 105-187.9(b)(1), the sum to be transferred under that subdivision for the 2007-2008 fiscal year is one hundred seventy million dollars (\$170,000,000) and for the 2008-2009 fiscal year is ~~one~~

~~hundred seventy million dollars (\$170,000,000).~~ one hundred forty-five million dollars (\$145,000,000)."

SECTION 2.2.(e) Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust, the sum of five million dollars (\$5,000,000) 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 2008-2009 fiscal year. These funds shall be transferred on or after April 30, 2009.

SECTION 2.2.(f) Notwithstanding G.S. 143C-9-3, of the funds credited to the Health Trust Account, the sum of five million dollars (\$5,000,000) that would otherwise be deposited in the Fund Reserve 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 2008-2009 fiscal year.

SECTION 2.2.(g) On July 1, 2008, the State Controller shall transfer twenty-six million dollars (\$26,000,000) from the Disaster Reserve Fund to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2008-2009 fiscal year.

SECTION 2.2.(h) On July 1, 2008, the State Controller shall transfer nineteen million three hundred thousand dollars (\$19,300,000) from the Disproportionate Share Receipt Reserve, to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2008-2009 fiscal year.

SECTION 2.2.(i) Transfers of additional availability in the amount of ten million fifty thousand two hundred forty-six dollars (\$10,050,246) are made to the General Fund pursuant to Sections 8.9, 9.1, 9.4, and 10.1 of this act.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2009, according to the following schedule. Amounts set out in brackets are reductions from Highway Fund Appropriations for the 2008-2009 fiscal year.

	2008-2009
Department of Transportation	
Administration	(\$9,583,308)
Repairs and Renovations	9,084,221
Division of Highways	
Administration	0
Construction	1,807,592
Maintenance	24,542,804
Planning and Research	0
OSHA Program	0
Ferry Operations	1,000,000

Public Transportation	0
Airports	0
Railroads	1,000,000
Governor's Highway Safety Program	0
Division of Motor Vehicles	245,266
State Aid to Municipalities	1,807,592
Transfers to Other State Agencies	431,491
Reserve for Compensation Increases	14,762,342
Reserve for Teachers' and State Employees' Retirement Contribution	1,462,000
TOTAL	\$46,560,000

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. Section 3.2 of S.L. 2007-323 is repealed. The Highway Fund availability used in adjusting the 2008-2009 fiscal year budget is shown below:

Highway Fund Availability Statement	2008-2009
Unappropriated Balance From Previous Year	0
Beginning Fund Balance	35,000,000
Estimated Revenue	1,822,550,000
Total Highway Fund Availability	\$1,857,550,000

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2009, according to the following schedule. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations for the 2008-2009 fiscal year.

Current Operations – Highway Trust Fund	2008-2009
Intrastate System	(40,691,943)
Urban Loops	(16,454,126)
Aid to Municipalities	(4,269,533)
Secondary Roads	(7,687,965)
Program Administration	3,627,360

Transfer to General Fund	(25,143,793)
North Carolina Turnpike Authority	25,000,000
Total	(\$65,620,000)

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. Section 4.2 of S.L. 2007-323 is repealed. The Highway Trust Fund availability used in adjusting the 2008-2009 fiscal year budget is shown below:

Highway Trust Fund Availability **\$1,073,160,000**

PART V. OTHER AVAILABILITY AND APPROPRIATIONS

CIVIL PENALTIES AND FORFEITURES/FUND AVAILABILITY AND APPROPRIATION

SECTION 5.1.(a) Section 5.1(a) of S.L. 2007-323 reads as rewritten:

"**SECTION 5.1.(a)** Availability. – The availability used to support appropriations made in this act from the Civil Penalty and Forfeiture Fund is based upon estimated collections of fines and forfeitures from the agencies and in the amounts listed below:

	FY 2007-2008		FY 2008-2009
Department of Revenue	\$63,000,000	\$63,000,000	<u>\$90,738,000</u>
Department of Transportation	\$15,000,000	\$15,000,000	<u>\$22,000,000</u>
Employment Security Commission	\$ 3,000,000	\$3,000,000	<u>\$4,200,000</u>
Department of Insurance	\$ 1,000,000	\$1,000,000	<u>\$600,000</u>
University of North Carolina	\$ 3,500,000	\$3,500,000	<u>\$3,600,000</u>
Other Agencies	\$10,000,000	\$10,000,000	<u>\$10,900,000</u>
Total Funds Available	\$95,500,000	\$95,500,000	<u>\$132,038,000"</u>

SECTION 5.1.(b) Section 5.1(b) of S.L. 2007-323 reads as rewritten:

"**SECTION 5.1.(b)** Appropriations. – Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal ~~biennium~~-year ending June 30, 2009, as follows:

	FY 2007-2008		FY 2008-2009
School Technology Fund	\$18,000,000		\$18,000,000
State Public School Fund	\$77,500,000	\$77,500,000	<u>\$114,038,000</u>
Total Appropriation	\$95,500,000	\$95,500,000	<u>\$132,038,000"</u>

EDUCATION LOTTERY

SECTION 5.2.(a) Pursuant to G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of three hundred eighty-five million five hundred thousand dollars (\$385,500,000) for the 2008-2009 fiscal year.

SECTION 5.2.(a1) Notwithstanding G.S. 18C-164(f), if the actual net lottery revenues for the 2007-2008 fiscal year exceed the amounts appropriated in the 2007-2008 fiscal year, the excess net revenue is also transferred from the State Lottery Fund to support appropriations made in this act for the 2008-2009 fiscal year.

SECTION 5.2.(b) Notwithstanding G.S. 18C-164(b), funds in the amount of nineteen million seven hundred fifty thousand dollars (\$19,750,000) shall be transferred from the Education Lottery Reserve Fund to the Education Lottery Fund to support appropriations made in this act. These funds shall be allocated for class size reduction.

Any unexpended funds not needed for this purpose shall be transferred back to the Education Lottery Reserve Fund at the end of the 2008-2009 fiscal year.

SECTION 5.2.(c) Notwithstanding G.S. 18C-164(d), the following amounts are appropriated from the Education Lottery Fund for the 2008-2009 fiscal year:

(1) Class Size Reduction	\$127,864,291
(2) Prekindergarten Program	84,635,709
(3) Public School Building Capital Fund	154,200,000
(4) Scholarships for Needy Students	38,550,000
Total	\$405,250,000

SECTION 5.2.(d) The excess lottery revenues for the 2007-2008 fiscal year that are transferred from the State Lottery Fund pursuant to subsection (a1) of this section are appropriated from the Education Lottery Fund for the 2008-2009 fiscal year for the Public School Building Capital Fund.

INFORMATION TECHNOLOGY FUND AVAILABILITY AND APPROPRIATION

SECTION 5.3. Section 5.3 of S.L. 2007-323 reads as rewritten:

"**SECTION 5.3.(a)** The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2007-2008	FY 2008-2009
Receipts from Information Technology Enterprise Fee	\$9,800,000	\$9,800,000
BEACON/Data Integration Funds	\$5,000,000	\$5,000,000
Interest Income	\$100,000	\$100,000
IT Fund Balance June 30	\$600,000	\$690,000
Appropriation from General Fund	\$4,140,000	\$2,840,000
<u>Reversions</u>	<u>0</u>	<u>\$800,000</u>
Total Funds Available	\$19,640,000	<u>\$18,430,000</u> <u>\$19,230,000</u>

"**SECTION 5.3.(b)** Appropriations are made from the Information Technology Fund for the 2007-2009 fiscal biennium as follows:

Office of Information Technology Services	FY 2007-2008	FY 2008-2009
Information Technology Operations	\$9,452,835	\$8,152,835 <u>\$9,451,778</u>
Information Technology Projects	\$4,497,165	<u>\$4,497,165</u> <u>\$4,129,362</u>
BEACON/Data Integration Funds	\$5,000,000	\$5,000,000

Total	\$18,950,000	\$17,650,000
		\$18,581,140

"SECTION 5.3.(c) The State shall not enter into any information technology enterprise agreements without obtaining written agreements from participating State agencies regarding apportionment of funding. State agencies agreeing to participate (i) must ensure that sufficient funds are budgeted to support their agreed shares of enterprise agreements throughout the life of the contract and (ii) must transfer the funds agreed upon to the Office of Information Technology Services in sufficient time for ITS to meet contract requirements.

"SECTION 5.3.(d) The Office of State Budget and Management shall identify the sum of eight hundred thousand dollars (\$800,000) in year-end reversions from State agencies to support Information Technology Fund programs and operations."

PART VI. GENERAL PROVISIONS

APPROPRIATION OF CASH BALANCES

SECTION 6.1. Section 6.1 of S.L. 2007-323 reads as rewritten:

"SECTION 6.1.(a) Expenditures of cash balances, federal funds, departmental receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund budget codes State funds, as defined in G.S. 143C-1-1(d)(25), are appropriated and authorized as provided in G.S. 143C-1-2 for the 2007-2009 fiscal biennium as follows:

- (1) For all budget codes listed in "North Carolina State Budget, Recommended Operating Budget 2007-2009, Volumes 1 through 6," cash balances and receipts are appropriated up to the amounts specified in Volumes 1 through 6, as adjusted by the General Assembly, for the 2007-2008 fiscal year and the 2008-2009 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items specified in Volumes 1 through 6, or otherwise authorized by the General Assembly.
- (1a) For all budget codes listed in the "Governor's Recommended Budget for Governmental and Proprietary Funds and Selected Component Units 2008-2009" but not covered by subdivisions (2) and (3) of this subsection, as adjusted by the General Assembly in this act.
- (2) For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2007-2009, Volumes 1 through 6," cash balances and receipts are appropriated for each year of the 2007-2009 fiscal biennium up to the level of actual expenditures for the 2006-2007 fiscal year, unless otherwise provided by law. Funds may be expended only for the programs, purposes, objects, and line items authorized for the 2006-2007 fiscal year.
- (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2007-2008 fiscal year and the 2008-2009 fiscal year and shall be used only to pay debt service requirements.
- (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances and receipts of funds that meet the definition issued by the

Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2007-2008 fiscal year and the 2008-2009 fiscal year.

~~All these cash balances, federal funds, departmental receipts, grants, and gifts shall be expended and reported in accordance with the provisions of the State Budget Act, except as otherwise provided by law and this section.~~

"SECTION 6.1.(b) Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by the State Budget Act.

Overrealized receipts are appropriated up to the amounts necessary to implement this subsection.

In addition to the consultation and reporting requirements set out in G.S. 143C-6-4, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter on any overrealized receipts approved for expenditure under this subsection by the Director of the Budget. The report shall include the source of the receipt, the amount overrealized, the amount authorized for expenditure, and the rationale for expenditure.

"SECTION 6.1.(c) Notwithstanding subsections (a) and (b) of this section, there is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year."

EXPENDITURES OF FUNDS IN RESERVES LIMITED

SECTION 6.2. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

BUDGET CODE CONSOLIDATIONS

SECTION 6.3. Notwithstanding G.S. 143C-6-4, the Office of State Budget and Management may adjust the enacted budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund codes. The Office of State Budget and Management shall change the authorized budget to reflect these adjustments.

CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR INCREASING FEES PURSUANT TO THE STATE BUDGET ACT

SECTION 6.4. Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in this act.

AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS

SECTION 6.6. Notwithstanding any other provision of law, 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.

CONTINUATION REVIEW OF CERTAIN FUNDS, PROGRAMS, AND DIVISIONS

SECTION 6.7.(a) It is the intent of the General Assembly to establish a process to periodically and systematically review the funds, agencies, divisions, and programs financed by State government. This process shall be known as the Continuation Review Program. The Continuation Review Program is intended to assist the General Assembly in determining whether to continue, reduce, or eliminate funding for the State's funds, agencies, divisions, and programs subject to continuation review.

SECTION 6.7.(b) The Appropriations Committees of the House of Representatives and the Senate may review the funds, programs, and divisions listed in this section and shall determine whether to continue, reduce, or eliminate funding for the funds, programs, and divisions, subject to the continuation review program. The Fiscal Research Division may issue instructions to the State departments and agencies subject to continuation review regarding the expected content and format of the reports required by this section. No later than December 1, 2008, the following agencies shall report to the Fiscal Research Division:

- (1) Tarheel Challenge Academy – Department of Crime Control and Public Safety.
- (2) Spot Safety Program – Department of Transportation.
- (3) Safety Inspection Program – Department of Commerce.
- (4) Military Business Center – Community College System.
- (5) Purchase of Medical Care Services Program – Department of Health and Human Services.
- (6) Parking Office – Department of Administration.
- (7) Forest Development Fund – Department of Environment and Natural Resources.

SECTION 6.7.(c) The continuation review reports required in this section shall include the following information:

- (1) A description of the fund, agency, division, or program mission, goals, and objectives.
- (2) The statutory objectives for the fund, agency, division, or program and the problem or need addressed.
- (3) The extent to which the fund, agency, division, or program's objectives have been achieved.
- (4) The fund, agency, division, or program's functions or programs performed without specific statutory authority.
- (5) The performance measures for each fund, agency, division, or program and the process by which the performance measures determine efficiency and effectiveness.
- (6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.

- (7) The consequences of discontinuing funding.
- (8) Recommendations for improving services or reducing costs or duplication.
- (9) The identification of policy issues that should be brought to the attention of the General Assembly.
- (10) Other information necessary to fully support the General Assembly's Continuation Review Program along with any information included in instructions from the Fiscal Research Division.

SECTION 6.7.(d) State departments and agencies identified in subsection (b) of this section shall submit a final report to the General Assembly by March 1, 2009.

STATE SUPPORT OF OUR MILITARY PERSONNEL

SECTION 6.8. The General Assembly finds that North Carolina has a rich military heritage and is the site of some of the nation's major military installations, including Camp Lejeune, Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, New River Marine Corps Air Station, United States Coast Guard Air Station, Elizabeth City, and Cherry Point Marine Corps Air Station. The General Assembly further finds that North Carolina is the home to more than 770,000 veterans of our nation's armed forces and about 120,000 active-duty military personnel, one of the largest active-duty military populations in our entire country. In appreciation of and gratitude to those North Carolinians, both living and deceased, who have served in our armed forces in service to our country, the General Assembly provides funding for and support of the following initiatives:

- (1) Defense and Security Technology Accelerator.
- (2) Military Morale, Welfare, and Recreation Fund.
- (3) "More at Four" for children of deployed military personnel.
- (4) Traumatic Brain Injury (TBI) Services.
- (5) Fayetteville Tech 3-D Technology Project.
- (6) National Guard Pension Fund.
- (7) National Guard Tuition Assistance Program.
- (8) National Guard Armory Rehabilitations.
- (9) Master Planning for Future Armory Needs.
- (10) Land Buffers and Latrines for Camp Butner.
- (11) Property Tax Homestead Exemption for Disabled Veterans.
- (12) North Carolina State Veterans Park.
- (13) Museum of the Marine.

FEDERAL AND OTHER RECEIPTS FROM PENDING GRANT AWARDS

SECTION 6.9. Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget, spend funds received from grants awarded subsequent to the enactment of this act, provided the applications for the grants were made prior to May 14, 2008. The Office of State Budget and Management shall work with the recipient State agencies to budget grants award according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a permanent or time-limited basis. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to expending any funds received from grant awards. Funds received from such grants are hereby

appropriated and shall be incorporated into the certified budget of the recipient State agency.

STATE HOUSING SUPPORT

SECTION 6.9A. The General Assembly finds that homeownership is the primary means by which families and individuals of low and moderate incomes build wealth. The General Assembly further finds that homeownership and a healthy housing market are essential to the health and economic vitality of North Carolina. To help stabilize the housing market, the General Assembly provides in excess of fourteen million dollars (\$14,000,000) in funding for and support of the following initiatives:

- (1) \$1,000,000 in nonrecurring funds from the State Banking Commission for counseling services to assist homeowners at risk of foreclosure.
- (2) \$2,000,000 in recurring funds for the Housing Trust Fund, located in the Housing Finance Agency, to provide affordable housing to low-income citizens.
- (3) \$7,000,000 in nonrecurring funds for the Housing Trust Fund, located in the Housing Finance Agency, to provide additional independent- and supportive-living apartments for persons with disabilities.
- (4) \$1,000,000 in recurring funds to the Department of Health and Human Services for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities.
- (5) \$3,000,000 in recurring funds for the Home Protection Program, located in the Housing Finance Agency, to provide counseling services and mortgage assistance to citizens who are at risk of foreclosure due to job loss.
- (6) \$200,000 in recurring funds to the North Carolina State Bar to provide legal assistance to low-income consumers in cases involving predatory mortgage lending, mortgage broker and loan services abuses, foreclosure defense, and other legal issues that relate to helping low-income consumers avoid foreclosure and home loss. Of these funds, \$100,000 recurring is provided to the Land Loss Prevention Project and \$100,000 recurring is provided to the Financial Protection Law Center.
- (7) Amends G.S. 7A-474.3(b) to allow the use of a portion of the estimated \$1,700,000 in increased revenue generated by Section 30.8 (a)(4) of S.L. 2007-323, to provide access to legal assistance to homeowners in cases involving predatory mortgage lending, mortgage broker and loan services abuses, foreclosure defense, and other legal issues that relate to helping consumers avoid foreclosure and home loss.

IMPROVE DISASTER RECOVERY AND BUSINESS CONTINUITY

SECTION 6.10.(a) The State Chief Information Officer (CIO) shall utilize the business and disaster recovery plans submitted under G.S. 147-33.89 and any other information at the CIO's disposal to determine whether State agencies have made adequate preparations for backing up critical applications.

SECTION 6.10.(b) In cases where backup is not sufficient to minimize any disruptions in critical State services caused by natural or man-made disasters, the State

CIO, in conjunction with the agencies and the Office of State Budget and Management, shall develop plans to utilize the Western Data Center for providing backup.

SECTION 6.10.(c) By December 1, 2008, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on the number of critical State applications without adequate backup, the State agencies utilizing the applications, and the plans for providing adequate backup.

SECTION 6.10.(d) This section does not apply to the General Assembly, to the Judicial Department, or to The University of North Carolina and its constituent institutions.

MULTIYEAR CONTRACTS FOR INFORMATION TECHNOLOGY

SECTION 6.11.(a) Notwithstanding the cash management provisions of G.S. 147-86.11, the Office of Information Technology Services (ITS) may procure information technology goods and services for periods not exceeding three years where the terms require payment of all or a portion of the purchase price at the beginning of the agreement. All of the following conditions must be met before payment for these agreements may be disbursed:

- (1) Any advance payment complies with the ITS budget.
- (2) The State Controller receives conclusive evidence that the proposed agreement would be more cost-effective than a multiyear agreement that complies with G.S. 147-86.11.
- (3) The procurement complies in all other respects with applicable statutes and rules.
- (4) The proposed agreement contains contract terms that protect the financial interests of the State against contractor nonperformance or insolvency through the creation of escrow accounts for funds, source codes, or both, or by other reasonable means that have legally binding effect.

SECTION 6.11.(b) The Office of State Budget and Management (OSBM) shall ensure that the savings from any authorized agreement will be included in the ITS calculation of rates before OSBM annually approves the proposed rates.

SECTION 6.11.(c) The Office of Information Technology Services shall report to the Office of State Budget and Management on any State agency budget impacts resulting from the multiyear contracts.

SECTION 6.11.(d) By January 1, 2009, then quarterly thereafter, the Office of Information Technology Services shall submit a written report of any authorizations granted under this section to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division.

DOCUMENT MANAGEMENT/DIGITAL SIGNATURE PILOT

SECTION 6.12.(a) Funds. – Of the funds appropriated to the Office of Information Technology Services (ITS) for the 2008-2009 fiscal year, the sum of two hundred thousand dollars (\$200,000) shall be used to pilot a statewide electronic document management system that will include a digital signature capability. ITS shall identify a State agency for the pilot, which shall develop the following program requirements:

- (1) Creation of a uniform and consistent set of policies and procedures for managing and preserving electronic records through their life cycle in an efficient, effective, and economical manner.

- (2) Development, establishment, and promotion of statewide electronic records management training and certification programs.
- (3) Promotion of the use of public records in digital format.
- (4) Development of statewide procurement standards for the electronic records infrastructure.
- (5) Provision of guidance and assistance to all customers on issues relating to public records in digital formats including, but not limited to, e-mail, e-commerce, electronic signature encryption, filings, public Web pages, metadata, and system documentation.

SECTION 6.12.(b) By April 1, 2009, the Office of Information Technology Services shall submit a written report to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division on the status and effectiveness of the electronic document management pilot.

STATE GEOGRAPHIC INFORMATION/CONSOLIDATION IMPLEMENTATION

SECTION 6.13. The State Chief Information Officer (SCIO), the Office of State Budget and Management (OSBM), and the Geographic Information Coordinating Council (GICC) shall develop a detailed plan to implement the recommendations contained in the Geographic Information System Study mandated by Section 6.13 of S.L. 2007-323. The implementation plan shall include, at a minimum, details relating to all of the following:

- (1) The current and future costs of unconsolidated State agency GIS efforts and an estimate of savings to be realized by the consolidation of GIS efforts.
- (2) A cost estimate for implementing the consolidation plan, with specific costs associated with each study report recommendation and the amount of any additional funding requirements to accomplish the consolidation and transfer.
- (3) An accounting of funds, furniture, equipment, and other operational resources to be transferred from the Department of Environment and Natural Resources (DENR) to the SCIO to support the Center for Geographic Information and Analysis (CGIA) and the GICC.
- (4) A description of personnel positions to be (i) transferred from DENR to SCIO and the sources and amount of funding associated with each position and (ii) eliminated due to the consolidation, if any.
- (5) Any new positions required and the costs associated with each new position.
- (6) Projects that can be consolidated as part of the plan implementation and the State agencies or contractors, or both, responsible for each of those projects.
- (7) A time line for implementation, including specific benchmarks.

By December 1, 2008, this detailed implementation plan shall be submitted to the Chairs of the House and Senate Appropriations Committees and to the Fiscal Research Division of the Legislative Services Office.

SINGLE ELECTRONIC MAIL SYSTEM

SECTION 6.14.(a) The State Chief Information Officer shall develop a detailed plan providing for the transition of all State agencies, departments, and

institutions to a single statewide electronic mail system by January 1, 2010. This plan shall be developed in consultation with each organization not currently using the Office of Information Technology Services electronic mail system and shall specifically address any issues identified by these organizations.

SECTION 6.14.(b) The plan shall be presented to the Joint Legislative Oversight Committee on Information Technology by November 1, 2008, and may be implemented after consultation with the Committee.

SECTION 6.14.(c) In preparing the Governor's proposed budget for 2009-2011, the Office of State Budget and Management may utilize the plan required under subsection (b) of this section.

SECTION 6.14.(d) This section shall not apply to the General Assembly, the Judicial Department, or The University of North Carolina and its constituent institutions. These agencies may utilize the electronic mail service operated by the Office in accordance with the statutes, policies, and rules of the Office.

CRIMINAL JUSTICE DATA INTEGRATION PILOT PROGRAM

SECTION 6.15.(a) The General Assembly finds that the State's Uniform Crime Reporting technology is based on procedures developed in the 1930s and a design plan developed in the late 1980s. Based on recent unfortunate events, it is abundantly clear that the State must establish a framework for sharing critical information, and the framework must be implemented as soon as possible. With improved access to timely, complete, and accurate information, the members of the General Assembly, leadership in State and local law enforcement agencies, law enforcement officers, and everyone working in the criminal justice system can enhance their ability to make decisions on behalf of the people of the State, with fewer decisions based on instinct or guesswork.

The General Assembly further finds that the April 2008 Beacon Report on a Strategic Plan for Data Integration recommends the development and implementation of a Crime Reporting Re-Design Project, a statewide crime analysis system designed to save time, save money, and save lives.

SECTION 6.15.(b) The Office of the State Controller, in cooperation with the State Chief Information Officer, and under the governance of the BEACON Project Steering Committee, shall by May 1, 2009, develop and implement a Criminal Justice Data Integration Pilot Program in Wake County in cooperation and communication with the advisory committee established pursuant to subsection (c) of this section and the leadership of State and local agencies. This pilot program shall integrate and provide up-to-date criminal information in a centralized location via a secure connection for use by State and local government. The pilot program vendor shall be selected by October 1, 2008.

While it is the intent that this initiative provide a broad new access to information across State government, the plan shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal and State law shall be limited to authorized persons.

SECTION 6.15.(c) The Advisory Committee to the Criminal Justice Data Integration Pilot program is hereby established. The Advisory Committee shall consist of the following members:

- (1) The District Attorney for Prosecutorial District 10, who shall serve as chair.
- (2) The senior resident superior court judge for Superior Court Districts 10A through 10D.
- (3) A Wake County magistrate designated by the senior resident superior court judge.
- (4) The Clerk of Superior Court of Wake County.
- (5) The sheriff of Wake County.
- (6) The judicial district manager for District 10 of the Division of Community Corrections.
- (7) The chief court counselor for District Court District 10.
- (8) The president of Duke University and the chancellor of The University of North Carolina, or their designees.

SECTION 6.15.(d) The Advisory Committee, the Department of Justice, the Administrative Office of the Courts, the Department of Juvenile Justice and Delinquency Prevention, the Department of Correction, the Department of Crime Control and Public Safety, the Department of Transportation, and local law enforcement agencies shall fully cooperate with the Office of the State Controller and the State Chief Information Officer, under the guidance of the BEACON Steering Committee, to identify the informational needs, develop a plan of action, provide access to data, and implement secure integrated applications for information sharing of criminal justice and corrections data.

SECTION 6.15.(e) Of the funds appropriated in this act, the sum of five million dollars (\$5,000,000) may be used to support the Criminal Justice Data Integration Pilot Program. Other funds available to BEACON may also be used for this purpose.

The Office of the State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative.

SECTION 6.15.(f) The Office of the State Controller, with the support of the Advisory Committee and the State Chief Information Officer, shall provide a written report of the plan's implementation progress to the House of Representatives and Senate Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division on a quarterly basis beginning October 1, 2008.

BEACON DATA INTEGRATION

SECTION 6.16.(a) The Office of the State Controller, in cooperation with the State Chief Information Officer, shall begin implementation of the Beacon Strategic Plan for Data Integration, issued in April 2008. This plan shall be implemented under the governance of the BEACON Project Steering Committee and in conjunction with leadership in appropriate State agencies and with the support and cooperation of the Office of State Budget and Management.

While it is the intent that this initiative provide broad access to information across State government, the plan shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal and State law shall be limited to appropriate and authorized persons.

SECTION 6.16.(b) The State Controller shall serve as the Chairman of the BEACON Project Steering Committee. The other members of the committee shall be

the State Chief Information Officer, the State Treasurer, the Attorney General, the Secretary of Correction, the Administrative Officer of the Courts, the State Budget Officer, and the Chief Financial Officer of the Department of Transportation.

SECTION 6.16.(c) Of the funds appropriated from the General Fund to the North Carolina Information Technology Fund, the sum of five million dollars (\$5,000,000) for the 2008-2009 fiscal year shall be used for BEACON data integration as provided by subsection (a) of this section. Funds to support this activity shall also be the unexpended balance from the funds appropriated for BEACON/Data Integration Funds in Section 5.3(b) of S.L. 2007-323. The Office of the State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative.

SECTION 6.16.(d) Funds authorized in this section may be used for the following purposes:

- (1) To support the cost of a project manager to conduct the activities outlined herein reportable to the Office of the State Controller.
- (2) To support two business analysts to provide support to the program manager and agencies in identifying requirements under this program.
- (3) To establish a Business Intelligence Competency Center (BICC), a collaborative organization comprised of both technical and business stakeholders, to support and manage the business need for analytics through the development of standards and best practices.
- (4) To engage a vendor to implement the Strategic Implementation Plan as required herein.
- (5) To conduct integration activities as approved by the BEACON Project Steering Committee. The State Chief Information Officer shall use current enterprise licensing to implement these integration activities.

SECTION 6.16.(e) Prior to the convening of the 2009 General Assembly, the Office of the State Controller shall provide semiannual reports to the Joint Legislative Oversight Committee for Information Technology. Written reports shall be submitted not later than October 1, 2008, and April 1, 2009, with presentations of the reports at the first session of the Joint Legislative Oversight Committee on Information Technology following the written report submission date. The Joint Legislative Oversight Committee on Information Technology shall then report to the Joint Legislative Commission on Governmental Operations.

SECTION 6.16.(f) Neither the implementation of the Strategic Information Plan nor the provisions of this section shall place any new or additional requirements upon The University of North Carolina or the North Carolina Community College System.

PART VII. PUBLIC SCHOOLS

CHILDREN WITH DISABILITIES

SECTION 7.1. The State Board of Education shall allocate funds for children with disabilities on the basis of three thousand three hundred eighty-six dollars and eighty-four cents (\$3,386.84) per child for a maximum of 172,079 children for the 2008-2009 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 2008-2009 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 7.2. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of one thousand one hundred thirty-seven dollars and nineteen cents (\$1,137.19) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2008-2009 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 59,063 children for the 2008-2009 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.

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.3.(a) 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 2007-2008 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:
 - a. Up to one thousand five hundred dollars (\$1,500) for each teacher and for certified personnel; and
 - b. Up to five hundred dollars (\$500.00) for each teacher assistant.
- (2) Incentive awards in schools that meet the expected improvements may be:
 - a. Up to seven hundred fifty dollars (\$750.00) for each teacher and for certified personnel; and
 - b. Up to three hundred seventy-five dollars (\$375.00) for each teacher assistant.

The State Board of Education shall limit the amount expended for this program to the average expenditure for this program over the last 11 years, which is ninety-four million three hundred twenty-five thousand six hundred twelve dollars (\$94,325,612).

SECTION 7.3.(b) The State Board of Education may use funds appropriated to the State Public School Fund to implement the consolidated assistance program, as directed in Section 7.6(b) of S.L. 2006-66. The Board shall report to the Joint Legislative Education Oversight Committee by January 15, 2009, on any restructuring of the program pursuant to this section.

NORTH CAROLINA VIRTUAL PUBLIC SCHOOL

SECTION 7.4.(a) Section 7.20(d) of S.L. 2007-323 reads as rewritten:

"SECTION 7.20.(d) The State Board of Education shall implement an allotment formula developed pursuant to Section 7.16(d) of S.L. 2006-66, for funding e-learning, effective in the ~~2008-2009~~2009-2010 fiscal year. NCVPS shall be available at no cost to all students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs. The Department of Public Instruction shall communicate to local school administrative units all applicable guidelines regarding the enrollment of nonpublic school students in these courses.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by December 15, 2008, on its implementation of this section.

Funds appropriated for NCVPS shall not revert at the end of the 2007-2008 fiscal year but shall remain available for expenditure in the 2008-2009 fiscal year."

SECTION 7.4.(b) If the State Board of Education finds that it is appropriate to do so, the State Board may use funds appropriated for NCVPS to create up to 15 full-time positions to support the continued implementation of NCVPS.

SECTION 7.4.(c) Subsection (a) of this section becomes effective June 30, 2008.

LEARN AND EARN ONLINE CARRYFORWARD

SECTION 7.5.(a) Funds appropriated for Learn and Earn Online that are unexpended or unencumbered at the end of each fiscal year shall not revert, but shall remain available for expenditure.

SECTION 7.5.(b) This section becomes effective June 30, 2008.

SCHOOL CONNECTIVITY INITIATIVE

SECTION 7.6.(a) Up to six hundred thousand dollars (\$600,000) may be transferred annually through June 30, 2013, to the Friday Institute at North Carolina State University to evaluate the effectiveness of using technology and its impact on 21st Century Teaching and Learning outcomes approved by the State Board of Education. The Friday Institute shall report annually to the State Board of Education on the evaluation results, including recommendations for continued implementation of the school connectivity initiative that improves teaching and learning.

SECTION 7.6.(b) Of the funds allocated for the School Connectivity Initiative, the sum of two hundred fifty thousand dollars (\$250,000) may be used to sustain the Education E-Learning Portal.

SECTION 7.6.(c) Funds allocated to the School Connectivity Initiative shall carry forward to the next fiscal year until the project is fully implemented by June 30, 2010.

SECTION 7.6.(d) Subsection (c) of this section becomes effective June 30, 2008.

ALLOTMENT FOR MENTORING SERVICES

SECTION 7.8. The State Board of Education shall allot funds for mentoring services to local school administrative units based on the highest number of employees in the preceding three school years who (i) are paid with State, federal, or local funds and (ii) are either teachers paid on the first or second steps of the teacher salary schedule or instructional support personnel paid on the first step of the instructional support personnel salary schedule.

Local school administrative units shall use these funds to provide mentoring support to eligible employees in accordance with a plan approved by the State Board of Education. The plan shall include information on how all mentors in the local school administrative unit will be adequately trained to provide mentoring support.

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING

SECTION 7.9. Section 7.8(c) of S.L. 2007-323 reads as rewritten:

"**SECTION 7.8.(c)** Funds appropriated to a local school administrative unit for disadvantaged student supplemental funding shall be allotted based on: (i) the local school administrative unit's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

- (1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of ~~1:20.0~~; 1:19.9;
- (2) For counties with wealth not less than eighty percent (80%) and not greater than ninety percent (90%) of the statewide average, a ratio of ~~1:19.5~~; 1:19.4;
- (3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of ~~1:19.3~~; 1:19.1; and
- (4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These LEAs shall receive no less than the DSSF amount allotted in 2006-2007.

For the purpose of this subsection, wealth shall be calculated under the low-wealth supplemental formula."

MODIFY LOW-WEALTH SCHOOL FUNDING FORMULA

SECTION 7.10.(a) Local school administrative units shall receive the same amount of funds for the 2008-2009 fiscal year under the low-wealth supplemental formula that they received for the 2007-2008 fiscal year. This allotment shall be adjusted in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel enacted by the General Assembly for the 2007-2008 fiscal year.

SECTION 7.10.(b) The provisions of Section 7.6 of S.L. 2007-323 regarding the expenditure of funds shall apply to low-wealth funds received for the 2008-2009 fiscal year.

ADDITIONAL LOTTERY FUNDS FOR SCHOOL BLDGS

SECTION 7.11. Monies allocated to the Public School Building Capital Fund pursuant to Section 5.2(b) of this act shall be allocated as follows:

- (1) The sum of one hundred forty million dollars (\$140,000,000) shall be allocated pursuant to G.S. 115C-546.2(d) ;
- (2) The remainder shall be allocated on the basis of average daily membership to local school administrative units that did not qualify for funding for the 2008-2009 fiscal year pursuant to G.S. 115C-546.2(d)(2). The maximum allocation shall be the amount received by other units pursuant to G.S. 115C-546.2(d)(2) on the basis of per average daily membership.

STUDY OF STUDENTS WITH DISABILITIES

SECTION 7.12. The Department of Public Instruction shall analyze the participation of students with disabilities in Learn and Earn Early College High Schools, Redesigned High Schools, the North Carolina Virtual Public School, and North Carolina public high schools that are on block schedules. In conducting its analysis, the Department shall consider enrollment, graduation, and dropout rates for students with disabilities in these different programs. The Department shall report its findings and any recommendations to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Dropout Prevention and High School Graduation by March 15, 2009.

FOCUSED ED. REFORM PROG. FUNDS DO NOT REVERT

SECTION 7.13.(a) Funds appropriated for the Focused Education Reform Pilot Program that are unexpended and unencumbered at the end of each fiscal year shall not revert but shall remain available for expenditure for that purpose for the duration of the pilot program.

SECTION 7.13.(b) This section becomes effective June 30, 2008.

REESTABLISH COMMITTEE ON DROPOUT PREVENTION

SECTION 7.14.(a) Section 7.32(e) of S.L. 2007-323 reads as rewritten:

"SECTION 7.32.(e) Report. – The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation created in subsection (f) of this section by December 1, 2007, on the grants awarded under subsection (d) of this section, ~~after which time the Committee shall terminate.~~section. The Committee shall terminate on December 31, 2010."

SECTION 7.14.(b) Committee. – The Committee on Dropout Prevention, as created in Section 7.32 of S.L. 2007-323, is reestablished to determine which local school administrative units, schools, agencies, and nonprofits shall receive dropout prevention grants under this section, the amount of each grant, and eligible uses of the grant funding. When utilizing outside grant reviewers and raters, the Committee is encouraged to utilize individuals who represent public schools, universities, and community-based organizations.

The Committee shall continue to be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Committee. The Department of Public Instruction shall contract with an independent consultant to serve as staff to the Committee, to provide technical assistance to the grant recipients for the length of the grant, and to assist the Committee in evaluating the impact of the grants awarded.

The members of the Committee shall assure they are in compliance with laws and rules governing conflicts of interest. The Committee shall meet on the call of the cochairs provided that the Committee shall meet at least once every three months.

In the event of a vacancy on the Committee, the appointing authorities are encouraged to provide representation on the Committee from each of the eight educational districts as defined in G.S. 115C-65.

SECTION 7.14.(c) Dropout Prevention Grants. – The Committee shall select grant recipients as follows:

- (1) From applications received in the process outlined in Section 7.32(d) of S.L. 2007-323 and using the process for the review of grant

applications in 2007, the Committee shall establish a new cutoff score and award grants to applicants that both meet the new cutoff score and did not previously receive funding under S.L. 2007-323. Priority for additional funding of grants awarded under S.L. 2007-323 shall be given to programs that would serve students in local schools that have a four-year cohort graduation rate of less than sixty-five percent (65%).

- (2) From the recipients of grants awarded under S.L. 2007-323, the Committee shall establish a process to award additional funds to those grantees.
- (3) Using the process outlined in Section 7.32(d) of S.L. 2007-323 consistent with subsection (d) of this section, the Committee may award grants to new applicants that did not apply for funding under that act.

SECTION 7.14.(d) Criteria for Dropout Prevention Grants. – The following criteria apply to all types of dropout prevention grants approved by the Committee:

- (1) Grants shall be issued in varying amounts up to a maximum of one hundred fifty thousand dollars (\$150,000).
- (2) These grants shall be provided to innovative programs and initiatives that target students at risk of dropping out of school and that demonstrate the potential to (i) be developed into effective, sustainable, and coordinated dropout prevention and reentry programs in middle schools and high schools and (ii) serve as effective models for other programs.
- (3) Priority shall be given to new programs and initiatives or to those that have begun within the last five school years.
- (4) Grants shall be distributed geographically throughout the State and throughout the eight educational districts as defined in G.S. 115C-65. No more than three grants shall be awarded in any one county under this section in a single fiscal year.
- (5) Grants may be made to local school administrative units, schools, local agencies, or nonprofit organizations.
- (6) Grants shall be to programs and initiatives that hold all students to high academic and personal standards.
- (7) Grant applications shall state (i) how grant funds will be used, (ii) what, if any, other resources will be used in conjunction with the grant funds, (iii) how the program or initiative will be coordinated to enhance the effectiveness of existing programs, initiatives, or services in the community, and (iv) a process for evaluating the success of the program or initiative.
- (8) Programs and initiatives that receive grants under this section shall be based on best practices for helping at-risk students achieve successful academic progress, preventing students from dropping out of school, or for increasing the high school completion rate for those students who already have dropped out of school.
- (9) Priority for grants shall be given to proposals that demonstrate input from the local community and coordination with other available programs or resources.

- (10) Grantees shall assure their compliance with applicable laws and rules regulating conflicts of interest.
- (11) Priority for grants shall be given to programs that would serve students in local schools that have a four-year cohort graduation rate of less than sixty-five percent (65%) and that are from counties that did not receive funding under S.L. 2007-323. The Committee shall establish a grant rating cutoff score at such a level as to allow for consideration of all viable grants in this priority category. The Committee may require grantees to provide supplemental information in response to any prior reviewer comments.
- (12) The demonstrated need for a grant, level of collaboration, ability to increase attendance, persistence, academic success, ability to increase parental involvement, and graduation shall be given more weight than the quality of the written grant.
- (13) Grants shall be made no later than November 1, 2008.

The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation and the Joint Legislative Education Oversight Committee on the grants awarded under this section by March 1, 2009.

SECTION 7.14.(e) Evaluation. – The Committee shall evaluate the impact of the dropout prevention grants awarded under S.L. 2007-323 and under this section. In evaluating the impact of the grants, the Committee shall consider:

- (1) How grant funds were used, including the services provided for teen pregnancy prevention and for pregnant and parenting teens;
- (2) The success of the program or initiative, as indicated by the evaluation process stated in its grant application;
- (3) The extent to which the program or initiative has improved students' attendance, test scores, persistence, and graduation rates;
- (4) How the program or initiative was coordinated to enhance the effectiveness of existing programs, initiatives, or services in the community;
- (5) What, if any, other resources were used in conjunction with the grant funds;
- (6) The sustainability of the program;
- (7) The number, gender, ethnicity, and grade level of students being served as well as whether the student left school due to pregnancy or parenting responsibilities;
- (8) The potential for the program to serve as a model for achieving successful academic progress for at-risk students; and
- (9) Other indicators of the impact of the grant on dropout prevention.

The recipients of the dropout prevention grants awarded under S.L. 2007-323 shall report to the Committee on Dropout Prevention by January 31, 2009, and by September 30, 2009. The reports shall provide information to assist the Committee in conducting its evaluation. The reports shall include a statement that the recipients used grant funds for the purposes appropriated by the General Assembly and complied with applicable laws, regulations, and terms and conditions of the grant documents. The Committee shall make an interim report of the results of its evaluation of the grants awarded under S.L. 2007-323 by March 31, 2009, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall make a final report of the results

of its evaluation of the grants awarded under S.L. 2007-323 by November 15, 2009, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee.

The recipients of the dropout prevention grants awarded under this section shall report to the Committee on Dropout Prevention by January 31, 2010, and by September 30, 2010. The reports shall provide information to assist the Committee in conducting its evaluation. The reports shall include a statement that the recipients used grant funds for the purposes appropriated by the General Assembly and complied with applicable laws, regulations, and terms and conditions of the grant documents. The Committee shall make an interim report of the results of its evaluation of the grants awarded under this section by March 31, 2010, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall make a final report of the results of its evaluation of the grants awarded under subsection (c) of this section by November 15, 2010, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee.

SECTION 7.14.(f) Dropout Prevention Network. – In addition to its other duties, the Joint Legislative Commission on Dropout Prevention and High School Graduation, established under Section 7.32 of S.L. 2007-323, shall study the development of an effective network for the purpose of sharing best practices among the grant recipients, the public schools, and other interested organizations. The Commission shall consider interactive Web sites, electronic information sharing, professional development opportunities, conferences, and other means that it believes would be effective. The Commission may consult with the Department of Public Instruction and the Committee on Dropout Prevention. The Commission shall report its findings and any recommendations to the 2009 General Assembly.

SECTION 7.14.(g) Of the funds appropriated in this act for the Committee on Dropout Prevention, the sum of five million five hundred thousand dollars (\$5,500,000) for the 2008-2009 fiscal year shall be used to award grants to applicants that did not previously receive funding under S.L. 2007-323. The remainder shall be used to award new grants, as well as additional grants to previous grant recipients, in accordance with subsection (b) of this section.

SECTION 7.14.(h) Funds appropriated for the dropout prevention grants for the 2007-2008 fiscal year shall not revert but shall remain available for expenditure until August 31, 2009. Funds appropriated for the 2008-2009 fiscal year shall not revert but shall remain available for expenditure until August 31, 2010.

SECTION 7.14.(i) Of the funds appropriated for the dropout prevention grants, the sum of one hundred thousand dollars (\$100,000) for the 2008-2009 fiscal year may be used to issue a request for proposals from qualified vendors on a competitive basis to contract as a consultant to assist with the evaluation. The factors to be considered in awarding the contract shall be identified in the request for proposals.

SECTION 7.14.(j) Of the funds appropriated for the dropout prevention grants, the Department of Public Instruction may use up to fifty thousand dollars (\$50,000) for its administrative assistance to the Committee and provide technical assistance under this section.

SECTION 7.14.(k) Subsection (h) of this section becomes effective June 30, 2008.

DROPOUT PREVENTION TECHNICAL CORRECTION

SECTION 7.14A. Section 7.32(c) of S.L. 2007-323 reads as rewritten:

"**SECTION 7.32.(c)** Committee. – There is established the Committee on Dropout Prevention. The Committee shall be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Committee and shall provide staff to the Committee.

The Committee shall determine which local school administrative units, schools, agencies, and nonprofits shall receive dropout prevention grants under subsection (d) of this section, the amount of each grant, and eligible uses of the grant funding. The Committee shall consist of the following 15 members:

- (1) The Governor shall appoint five members, of whom one is a superintendent of schools, one is a representative of a nonprofit, and one is a school social worker;
- (2) The General Assembly upon the recommendation of the President Pro Tempore of the Senate shall appoint five members, of whom one is a principal, one is a representative of a school of education, and one is a school counselor; and
- (3) The General Assembly upon the recommendation of the Speaker of the House of Representatives shall appoint five members, of whom one is a teacher, one is a member of the business community, and one is a representative of the juvenile justice system.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The members of the Committee shall assure they are in compliance with laws and rules governing conflicts of interest."

USE OF LEARN AND EARN ONLINE FOR HYBRID COURSES

SECTION 7.15. Local school administrative units may use funds appropriated for Learn and Earn Online for college-level courses taught by university instructors at public schools. Instruction for these courses shall be partially delivered online. Payments related to the textbooks and the prorated cost of the instructor shall be paid to the university supplying the instruction.

The State Board of Education shall adopt policies to establish guidelines and reimbursement procedures.

COMPREHENSIVE SUPPORT FOR SCHOOL SYSTEMS AND SCHOOLS

SECTION 7.16. If a local school administrative unit is designated by the State Board of Education as a targeted school district for comprehensive support, the State Board may:

- (1) Authorize additional flexibility with regard to State allotments to allow the State Board's assigned support team and the local school administrative unit's leadership to redirect State funding to address the identified reform requirements. This additional flexibility shall not increase overall State funding available to the unit.
- (2) Use funds already appropriated to the State Board of Education to allocate time-limited funds to implement strategies identified by the State Board's assigned support team and the school unit's leadership. The State Board shall adopt policies regarding (i) the strategies for

which these time-limited funds may be used and (ii) the maximum time a unit may receive these funds. This funding shall not be allotted for more than one fiscal year. This funding is intended to allow the implementation of necessary reform initiatives while the unit obtains local funding or identifies other State or federal funding to cover the initiatives.

MORE AT FOUR PROGRAM

SECTION 7.17.(a) Section 7.24(f) of S.L. 2007-323 reads as rewritten:

"SECTION 7.24.(f) If a county is unable to increase "More at Four" slots because of a documented lack of available resources necessary to provide the required local contribution for the additional slots allocated to the county for the 2007-2008 fiscal year, ~~year~~ or the 2008-2009 fiscal year, the contract agency for that county may appeal to the Office of School Readiness for an exception to the required local amount for those additional slots. The Office of School Readiness may grant an exception and allot funds to pay up to ninety percent (90%) of the full cost of the additional slots for that county if it finds that (i) there is in fact a documented lack of available resources in the county and (ii) granting the exception will not reduce access statewide to "More at Four" slots."

SECTION 7.17.(b) The Office of School Readiness shall develop a plan to tier the local More at Four slots that are in child care facilities, based on child care subsidy market rates. The Office of School Readiness shall report the plan to the House of Representatives Appropriations Subcommittee on Education, the Senate Appropriations Committee on Education, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Education Oversight Committee, and the Fiscal Research Division by January 1, 2009.

SECTION 7.17.(c) Section 7.24.(a)(11) of S.L. 2007-323 reads as rewritten:

"SECTION 7.24.(a) The Department of Public Instruction 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 and the Department of Public Instruction. The program shall include:

- ...
- (11) A system of ~~accountability~~-accountability to include a yearly review. The Department shall contract with an independent research organization to produce an annual report to include longitudinal review of the program and academic, behavioral, and other child-specific outcomes. The review shall include a quasi experimental research design of a representative sample of children who complete the More at Four program every year and shall report on their sustained progress until the end of grade 9. The review shall also study a representative sample of children who do not enter the More at Four program but who are of the same grade level and demographic as those who complete the program and their sustained progress shall also be

reviewed until the end of grade 9. The review shall be presented to the Joint Legislative Oversight Committee on Education by January 31 of every year."

PLANT OPERATION FUNDING

SECTION 7.18.(a) G.S. 115C-546.2(a) reads as rewritten:

"(a) ~~Monies~~ Of the monies credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b), the State Board of Education may allocate up to one million dollars (\$1,000,000) each year to the Department of Public Instruction. These funds shall be used by the Plant Operation Section of the School Support Division to assist each local school administrative unit with effective energy and environmental management, effective water management, hazardous material management, clean air quality, and engineering support for safe, effective environmental practices. The remainder of the monies in the Fund shall be allocated to the counties on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education. Interest earned on funds allocated to each county shall be allocated to that county."

SECTION 7.18.(b) The Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee by April 15 of each year on the effectiveness of the program in accomplishing its purpose and on any other information requested by the Committee.

REPORT ON THE USE OF FUNDS FOR AGRICULTURAL EDUCATION PROGRAMS

SECTION 7.19. The State Board of Education shall report on its use of federal funds which support career and technical education to the Joint Legislative Education Oversight Committee prior to the convening of the 2009 General Assembly.

ALLOTMENTS OF TEACHERS FOR SMALL SCHOOLS

SECTION 7.20. The State Board of Education shall modify its policy on the allotment of funds for small schools by:

- (1) Defining small schools to include schools of fewer than 110 students; and
- (2) Giving consideration to small, geographically isolated schools over other qualifying programs and schools.

MATH AND SCIENCE TEACHERS PILOT PROGRAM MODIFIED

SECTION 7.21. The pilot program providing for salary supplements for newly hired mathematics or science teachers is modified to permit both highly qualified and newly hired teachers in the pilot units to qualify to receive salary supplements.

INCREASES IN STUDENT POPULATION DUE TO BRAC ACTIVITY

SECTION 7.23. If a local school administrative unit employs more classroom teachers than are allotted to it due to a projected increase in student population resulting from BRAC activity, the State Board shall allot additional teachers to the unit based on the greater of (i) the local school administrative unit's first month average daily membership (ADM) or (ii) fifty percent (50%) of the projected increase in ADM resulting from BRAC activity that is in excess of the increase anticipated in the allotted ADM.

The Department of Public Instruction shall notify each impacted local school administrative unit as to the BRAC population increase in excess of allotted average daily membership on or before the distribution of the initial allotments.

Section 7.15(b) of S.L. 2007-323 does not apply to local school administrative units receiving an additional allotment of teachers pursuant to this section.

REPORT ON USE OF TEACHER ACADEMY FUNDS

SECTION 7.24. The North Carolina Teacher Academy shall report on the use of funds for literacy coach training to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management by March 15, 2009. The report shall include (i) actual expenditures by line item for the 2007-2008 fiscal year and for the first two quarters of the 2008-2009 fiscal year, (ii) total budgeted requirements by line item for both fiscal years, and (iii) activities supported by these funds.

CHILD NUTRITION

SECTION 7.25.(a) G.S. 115C-264.3 reads as rewritten:

"§ **115C-264.3. Child Nutrition Program standards.**

The State Board of Education, in direct consultation with a cross section of local directors of child nutrition services, shall establish statewide nutrition standards for school meals, a la carte foods and beverages, and items served in the After School Snack Program administered by the Department of Public Instruction and child nutrition programs of local school administrative units. The nutrition standards will promote gradual changes to increase fruits and vegetables, increase whole grain products, and decrease foods high in total fat, trans fat, saturated fat, and sugar. The nutrition standards adopted by the State Board of Education shall be implemented initially in elementary schools. All elementary schools shall achieve a basic level by the end of the ~~2008-2009~~ 2009-2010 school year, followed by middle schools and then high schools."

SECTION 7.25.(b) Local school administrative units are encouraged to take steps to implement within existing funds and to the extent possible the nutrition program standards under G.S. 115C-264.3 by the end of the 2008-2009 school year.

PART VIII. COMMUNITY COLLEGES

REORGANIZATION OF THE NORTH CAROLINA COMMUNITY COLLEGES SYSTEM OFFICE

SECTION 8.1.(a) Notwithstanding any other provision of law, and consistent with the authority established in G.S. 115D-3, the President of the North Carolina Community College System may reorganize the System Office in accordance with recommendations and plans submitted to and approved by the State Board of Community Colleges.

SECTION 8.1.(b) This section expires June 30, 2009.

USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM

SECTION 8.2.(a) Funds appropriated in this act to the Community Colleges System Office for the College Information System shall not revert at the end of the 2008-2009 fiscal year but shall remain available until expended. These funds may only be used to purchase periodic system upgrades.

SECTION 8.2.(b) Notwithstanding G.S. 143C-6-4, the Community Colleges System Office may, subject to the approval of the Office of State Budget and Management and in consultation with the Office of Information Technology Services, use funds appropriated in this act for the College Information System to create a maximum of three positions. Personnel positions created pursuant to this subsection shall be dedicated to maintaining and administering information technology and software upgrades to the College Information System.

SECTION 8.2.(c) The Community Colleges System Office shall report by January 1, 2009, to the Joint Legislative Education Oversight Committee on the transition from the implementation phase to the ongoing operations and maintenance phase of the College Information System Project.

REPORT ON EFFECT OF ADDITIONAL ALLIED HEALTH FUNDING

SECTION 8.3. The Community Colleges System Office shall report by March 1, 2009, to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management regarding the impact of the additional funding received for nursing and allied health programs during the 2006-2007, 2007-2008, and 2008-2009 fiscal years. This report shall include, at a minimum:

- (1) The number of FTE students enrolled in these programs;
- (2) The number of qualified applicants who were not admitted due to program capacity constraints;
- (3) The performance of students on nursing licensure exams; and
- (4) The average salary for allied health faculty by education level.

REPORT ON COST OF ALL PROGRAMS

SECTION 8.4. The Community Colleges System Office shall report by May 15, 2009, to the Fiscal Research Division and the Office of State Budget and Management regarding the instructional cost of all curriculum and non-curriculum programs. This report shall include an explanation of the differences in costs between programs, including faculty salaries and equipment costs.

MINORITY MALE MENTORING PROGRAM FUNDS

SECTION 8.5.(a) Funds appropriated for the Minority Male Mentoring Program shall not revert at the end of the fiscal year, but shall remain available until expended. Of the funds carried forward, up to one hundred thousand dollars (\$100,000) may be used by the State Board of Community Colleges to recruit minority male students to community colleges, market the thirty-two pilot programs statewide, and contract for summer enrichment programs for program participants.

SECTION 8.5.(b) This section becomes effective June 30, 2008.

LEARN AND EARN ONLINE FUNDS

SECTION 8.6.(a) Funds reimbursed to the Community College System for full-time equivalent (FTE) students participating in learn and earn online courses shall not revert at the end of a fiscal year, but shall remain available for expenditure up to 12 months after the close of a fiscal year.

SECTION 8.6.(b) This section becomes effective June 30, 2008.

CONSOLIDATE WORKFORCE DEVELOPMENT PROGRAMS

SECTION 8.7.(a) G.S. 115D-5.1 reads as rewritten:

"§ 115D-5.1. Workforce Development Programs.

(a) Community colleges shall assist in the preemployment and in-service training of employees in industry, business, agriculture, health occupation and governmental agencies. Such training shall include instruction on worker safety and health standards and practices applicable to the field of employment. The State Board of Community Colleges shall make appropriate regulations including the establishment of maximum hours of instruction which may be offered at State expense in each in-plant training program. No instructor or other employee of a community college shall engage in the normal management, supervisory and operational functions of the establishment in which the instruction is offered during the hours in which the instructor or other employee is employed for instructional or educational purposes.

~~(b) The North Carolina Community College System's New and Expanding Industry Training (NEIT) Program Guidelines, which were adopted by the State Board of Community Colleges on April 18, 1997, apply to all funds appropriated for the Program after June 30, 1997. A project approved as an exception under these Guidelines, or these Guidelines as modified by the State Board of Community Colleges, shall be approved for one year only.~~

~~(b1) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt rules and guidelines that allow the New and Expanding Industry Training Program and the Focused Industrial Training Program to use funds appropriated for those programs to support training projects for the various branches of the United States Armed Forces.~~

~~(c) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on September 1 of each year on expenditures for the New and Expanding Industry Training Program each fiscal year. The report shall include, for each company or individual that receives funds for the New and Expanding Industry Training Program:~~

- ~~(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.~~

~~(d) Funds available to the New and Expanding Industry Training Program shall not revert at the end of a fiscal year but shall remain available until expended.~~

(e) There is created within the North Carolina Community College System the Customized ~~Industry Training (CIT) Program~~. The CIT Customized Training Program shall offer programs and training services as new options for assisting to assist new and existing business and industry to remain productive, profitable, and within the State. Before a business or industry qualifies to receive assistance under the CIT Customized Training Program, the President of the North Carolina Community College System shall determine that:

- (1) The business is making an appreciable capital investment;
- (2) The business is deploying new technology; ~~and~~

- (2a) The business or individual is creating jobs, expanding an existing workforce, or enhancing the productivity and profitability of the operations within the State; and
- (3) The skills of the workers will be enhanced by the assistance.
- (f) The State Board shall report on an annual basis to the Joint Legislative Education Oversight Committee on:
- (1) The total amount of funds received by a company under the CIT Program;
 - (2) The amount of funds per trainee received by that company;
 - (3) The amount of funds received per trainee by the community college delivering the training;
 - (4) The number of trainees trained by the company and community college; and
 - (5) The number of years that company has been funded.
- (f1) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt rules and guidelines that allow the Customized Training Program and the Focused Industrial Training Program to use funds appropriated for those programs to support training projects for the various branches of the United States Armed Forces.
- (f2) Funds available to the Customized Training Program shall not revert at the end of a fiscal year but shall remain available until expended. Up to ten percent (10%) of the college-delivered training expenditures and up to five percent (5%) of the contractor-delivered training expenditures for the prior fiscal year for Customized Training may be allotted to each college for capacity building at that college.
- (f3) Of the funds appropriated in a fiscal year for the Customized Training Programs, the State Board of Community Colleges may approve the use of up to eight percent (8%) for the training and support of regional community college personnel to deliver Customized Industry Training Program services to business and industry.
- (g) The State Board shall adopt rules and policies to implement this section."

SECTION 8.7.(b) The State Board of Community Colleges shall transfer funds appropriated for the New and Expanding Industry Training Program and the Focused Industrial Training Program to the Customized Industry Training Programs appropriation. This transfer shall be completed by September 1, 2008.

BASIC SKILLS BLOCK GRANT

SECTION 8.8. The Community Colleges System Office shall develop a new formula for the Basic Skills Block Grant for consideration during the 2009 Session of the General Assembly. The revised formula shall incorporate the following changes:

- (1) Federal funds shall be distributed to both community-based organizations and community colleges using the same process and shall only be awarded to programs that meet minimum standards; and
- (2) A larger amount of funding shall be distributed on the basis of performance using revised criteria.
- (3) The formula shall not include funding for members of target populations who do not receive basic skills services.

TRANSFERS OF CASH BALANCES TO THE GENERAL FUND

SECTION 8.9.(a) Notwithstanding any other provision of law, four million five hundred thousand dollars (\$4,500,000) of the cash balance remaining in the North

Carolina Community College System Information Technology CIS Fund (Budget Code 26802, Fund 2201) on July 1, 2008, 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 appropriations for the 2008-2009 fiscal year for expansion funding for the North Carolina Community College System.

SECTION 8.9.(b) Notwithstanding any other provision of law, seven hundred eighty-three thousand two hundred forty-six dollars (\$783,246) of the cash balance remaining in the Focused Industrial Training (FIT) programs (Budget Code 16800, Fund 1603) on July 1, 2008, 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 appropriations for the 2008-2009 fiscal year for expansion funding for the North Carolina Community College System.

FUNDS FOR CAMPUS SECURITY

SECTION 8.10. Notwithstanding G.S. 115D-32 or any other provision of law, a community college may use up to two percent (2%) of the noninstructional State funds allocated to it in the institutional support allotment for the 2008-2009 fiscal year for campus security. This may include the hiring of personnel, contracted professional services, surveillance cameras, call boxes, alert systems, and other equipment-related expenditures.

These funds shall be used to supplement and shall not be used to supplant existing local funding for campus security.

CLARIFY USE OF FEES COLLECTED FOR GED TESTING

SECTION 8.11. G.S. 115D-5 is amended by adding a new subsection to read:

"(s) The State Board of Community Colleges may retain and budget fees charged to students taking the General Education Development (GED) test. Fees collected for this purpose shall be used only to (i) offset the costs of the GED test, including the cost of scoring the test, (ii) offset the course of printing GED certificates, and (iii) meet federal and State reporting requirements related to the test."

CARRYFORWARD OF NORTH CAROLINA RESEARCH CAMPUS BIOTECHNOLOGY TRAINING FUNDS

SECTION 8.12.(a) Funds appropriated in S.L. 2006-66 and S.L. 2007-323 for the Rowan-Cabarrus Community College Biotechnology Training Center and Greenhouse at the North Carolina Research Campus in Kannapolis shall not revert, but shall remain available until expended.

SECTION 8.12.(b) This section becomes effective June 30, 2008.

USE OF BASIC SKILLS FUNDS

SECTION 8.13. Notwithstanding any other provision of law, a local community college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board of Community Colleges to procure instructional technology for literacy labs. This technology may include computers, instructional software and software licenses, scanners for testing, and classroom projection equipment.

SURRY COMMUNITY COLLEGE VITICULTURE & ENOLOGY CENTER FUNDS

SECTION 8.14.(a) Funds appropriated for the 2007-2008 fiscal year to the Community Colleges System Office for the operations of the North Carolina Viticulture and Enology Center located at Surry Community College shall not revert at the end of the fiscal year. Surry Community College may use these funds for capital construction for the Center.

SECTION 8.14.(b) This section becomes effective June 30, 2008.

STUDY OF CHANGES NECESSARY TO IMPROVE FINANCIAL AID TO COMMUNITY COLLEGE STUDENTS

SECTION 8.15. The Joint Legislative Education Oversight Committee shall study the changes necessary to improve financial aid for community college students. Specifically the study shall include recommendations on how to better serve nontraditional students and how to increase the number of community colleges that participate in federal student loan programs.

USE OF HOSIERY CENTER FUNDS.

SECTION 8.16. Funds appropriated to the Community Colleges System Office for the Hosiery Technology Center at Catawba Valley Community College may be expended for the Center for Emerging Manufacturing Solutions (CEMS), which was established by Catawba Valley Community College in February 2008. The Hosiery Technology Center is now a division with the CEMS.

NO FEES FOR FIRST AID COURSES TAKEN BY SCHOOL EMPLOYEES

SECTION 8.17. G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department's Division of Community Corrections and employees of the Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Health and Human Services Development

Programs, juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent jurisdiction, prison inmates, ~~and~~ members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General Statutes, ~~Statutes, and~~ elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR). Provided further, tuition shall be waived for senior citizens attending institutions operating under this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be waived for all courses taken by high school students at community colleges, including students in early college and middle college high school programs, in accordance with G.S. 115D-20(4) and this section."

STUDENTS IN THE GATEWAY TO COLLEGE PROGRAM MAY ENROLL IN DEVELOPMENTAL COURSES

SECTION 8.18. G.S. 115D-5 is amended by adding a new subsection to read:

"(t) The purpose of the first semester of the Gateway to College Program is to address additional support to successfully complete the program. Students may need to take developmental courses necessary for the transition to more challenging courses; therefore, the State Board of Community Colleges shall (i) permit high school students who are enrolled in Gateway to College Programs to enroll in developmental courses based on an assessment of their individual student needs by a high school and community college staff team and (ii) include this coursework in computing the budget FTE for the colleges."

USE OF FUNDS FOR ISOTHERMAL COMMUNITY COLLEGE

SECTION 8.19.(a) Funds appropriated by the 2005 General Assembly as a grant-in-aid for Isothermal Community College for a capital project shall remain available to the college and may be used for another capital project at the college.

SECTION 8.19.(b) This section becomes effective June 30, 2008.

PART IX. UNIVERSITIES

ELIMINATE COACHING SCHOLARSHIP LOAN PROGRAM/TRANSFER FUND BALANCE TO GENERAL FUND

SECTION 9.1.(a) G.S. 116-209.36 is repealed.

SECTION 9.1.(b) All financial obligations to any student awarded a scholarship loan from the Coaching Scholarship Loan Fund before July 1, 2008, shall be fulfilled provided the student remains eligible under the provisions of the Coaching Scholarship Loan Fund. All contractual agreements between a student awarded a scholarship loan from the Coaching Scholarship Loan Fund before July 1, 2008, and the State Education Assistance Authority remain enforceable and the provisions of G.S. 116-209.36 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2008.

SECTION 9.1.(c) Effective June 30, 2008, the unencumbered balance of funds in the Coaching Scholarship Loan Fund shall revert to the General Fund.

PRIVATE COLLEGE STUDENT ELIGIBILITY FOR EARN SCHOLARSHIP/USE OF ESCHEAT FUNDS FOR CERTAIN EARN SCHOLARSHIPS

SECTION 9.2.(a) G.S. 116-209.26(a) reads as rewritten:

"(a) The following definitions apply to this section:

- (1) Academic year. – A period of time in which a student in matriculated status is expected to complete the equivalent of at least two semesters' or three quarters' academic work.
- (2) Eligible postsecondary institution. – A school that ~~is~~is any of the following:
 - a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4);~~or~~
 - b. A community college as defined in ~~G.S. 115D-2(2);~~G.S. 115D-2(2); or
 - c. An institution as defined in G.S. 116-22(1).
- (3) Matriculated status. – Being recognized as a first-time candidate for a degree or certificate, exclusive of any course credits earned while in high school, in a defined program of study at an eligible postsecondary institution.
- (4) Title IV. – Title IV of the Higher Education Act of 1965, as amended."

SECTION 9.2.(b) G.S. 116-209.26 is amended by adding a new subsection

to read:

"(h) No funds appropriated from the Escheat Fund to the Education Access Rewards North Carolina Scholars Fund shall be used for a grant awarded under this section to a student who is an undergraduate student at an institution as defined in G.S. 116-22(1); however, funds appropriated from the General Fund to the Education Access Rewards North Carolina Scholars Fund may be used for a grant awarded under this section to a student who is an undergraduate student at an institution as defined in G.S. 116-22(1)."

SECTION 9.2.(c) Section 9.7(b) of S.L. 2007-323 reads as rewritten:

"SECTION 9.7.(b) There is appropriated from the General Fund to the State Education Assistance Authority the sum of twenty-seven million six hundred five thousand two hundred ten dollars (\$27,605,210) for the 2007-2008 fiscal year ~~and the sum of sixty million dollars (\$60,000,000) for the 2008-2009 fiscal year.~~ Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2008-2009 fiscal year the sum of sixteen million two hundred twenty-five thousand dollars (\$16,225,000) shall be allocated to the Education Access Rewards North Carolina Scholars Fund (EARN)."

SECTION 9.2.(d) Section 9.7(c) of S.L. 2007-323 reads as rewritten:

"SECTION 9.7.(c) There is appropriated from the Escheat Fund to the State Education Assistance Authority the sum of ~~forty million dollars (\$40,000,000)~~ sixty million dollars (\$60,000,000) for the 2008-2009 fiscal year. ~~Notwithstanding any other provision of law, no funds shall be used from the Escheat Fund until all monies from the General Fund appropriated under Section 9.7(c) have been exhausted."~~

SECTION 9.2.(e) Subsections (a) and (b) of this section apply only for academic years beginning on or after July 1, 2008.

CLOSING THE ACHIEVEMENT GAP/GRANTS

SECTION 9.3.(a) Of the funds appropriated by this act for the 2008-2009 fiscal year to the Board of Governors of The University of North Carolina to be used for the North Carolina Historically Minority Colleges and Universities initiative for "Closing the Achievement Gap," North Carolina Central University may use up to fifteen percent (15%) of the funds to cover the costs for administering the grants and shall award at least eighty-five percent (85%) of the funds as grants to participating public and private institutions of higher education identified as historically minority colleges and universities. These funds shall be used for the public purposes of developing and implementing after-school programs designed to close the academic achievement gap and improving the academic performance of youth at risk of academic failure and school dropout. A grant recipient under this section may also allocate the grant funds to a community-based organization that is located in close proximity to the grant recipient for the public purposes stated in this section.

SECTION 9.3.(b) North Carolina Central University shall report to the Joint Legislative Education Oversight Committee and to the Fiscal Research Division by April 1, 2009, regarding the number of grants awarded, the recipients of the grants, the amount of the grant awarded, the programs and purposes for which the grant was awarded, the cost of administering the grant, and any other information requested by the Committee or Fiscal Research Division. The grants awarded pursuant to this section shall also include as a term of the grant that the recipient of the grant report to the Joint Legislative Education Oversight Committee and to the Fiscal Research Division regarding the amount of the grant received, the program and purposes for which the grant was requested, the methodology used to implement the grant program and purposes, the results of the program funded by the grant, and any other information requested by the Joint Legislative Education Oversight Committee and the Fiscal Research Division.

OPTIONAL SCHOLARSHIP FOR CERTAIN GRADUATES OF THE PRINCIPAL FELLOWS PROGRAM

SECTION 9.4.(a) The North Carolina Principal Fellows Commission in collaboration with the State Education Assistance Authority shall make available an optional six-month scholarship in the amount of twenty thousand dollars (\$20,000) to any person who was a recipient of a scholarship loan through the Principal Fellows Program and who: (i) was in Class 10 of the Principal Fellows Program for the 2003-2004 academic year, (ii) completed the Principal Fellows Program, and (iii) has either served as a school administrator for four years at a North Carolina public school or at a school operated by the United States as required by G.S. 116-74.43, or who has had the loan forgiven by the State Education Assistance Authority pursuant to G.S. 116-74.43. A person may be eligible for the optional six-month scholarship only after fulfilling all contractual obligations agreed to by the person upon receipt of the original scholarship loan awarded to the person under G.S. 116-74.42. Exclusive of any deferment for extenuating circumstances, a person remains eligible for the optional six-month scholarship for two years after the six-year period of time allowed the person to satisfy the original scholarship loan requirements under G.S. 116-74.43. Should a person present extenuating circumstances, the State Education Assistance Authority may extend the period of time for which a person remains eligible for the optional six-month scholarship for a reasonable time period.

SECTION 9.4.(b) The Principal Fellows Commission shall develop the criteria for awarding the scholarship. In developing the criteria, the Commission shall require that the person agree to work at least another six months as a school administrator in a North Carolina public school or at a school operated by the United States after satisfying the four-year work requirement set out in G.S. 116-74.43. The Commission, in collaboration with the State Education Assistance Authority, shall develop a process for evaluating a scholarship recipient's work performance and for issuing a final approval and certification of the work performance. The Commission shall transfer to the State Education Assistance Authority the name of each recipient that it certifies as successfully completing the optional scholarship program. The State Education Assistance Authority shall pay the twenty thousand dollar (\$20,000) stipend to the scholarship recipient within a reasonable time of receiving notification from the Commission that the recipient has successfully completed the optional scholarship program. The State Education Assistance Authority shall perform all of the administrative functions necessary to implement this act, including rule making.

SECTION 9.4.(c) Effective June 30, 2008, the sum of one million dollars (\$1,000,000) shall revert from the Principal Fellows Trust Fund to the General Fund. The sum of one million seven hundred forty thousand dollars (\$1,740,000) in the Principal Fellows Trust Fund shall be held in reserve to pay each participant in the optional scholarship program the stipend of twenty thousand dollars (\$20,000) upon successful completion of the optional scholarship program.

REPORTING ON UNC FACULTY WORKLOAD

SECTION 9.6.(a) The Board of Governors shall conduct a study on faculty workload. The study shall be done using the Delaware Study Method of collecting data. Information in the report shall include, but is not to be limited to:

- (1) Faculty workload data for each UNC constituent institution compared to the UNC enrollment model.
- (2) UNC faculty workload average as compared to the UNC enrollment model student credit hours per instructional position.
- (3) Faculty workload of regional and peer institutions as compared to each UNC constituent institution faculty average and to the UNC faculty workload average.

SECTION 9.6.(b) The UNC Board of Governors shall submit the study to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than August 1, 2008.

UNC-NCCCS 2+2 E-LEARNING INITIATIVE

SECTION 9.7.(a) Funds appropriated in this act to The University of North Carolina and the North Carolina Community College System for the UNC-NCCCS 2+2 E-Learning Initiative shall be used to fund further development of online courses for 2+2 programs. Based on a mutually agreed upon decision by the State Board of Education Chairman, the President of the Community Colleges, and the President of The University of North Carolina as to the areas of greatest need, to include mathematics and science teacher licensure fields, these funds are available to support joint technology development, systems to track student progress, and articulation between a North Carolina community college and a UNC constituent institution and develop technology needed to support online courses and 2+2 programs.

SECTION 9.7.(b) The University of North Carolina and the North Carolina Community College System shall use these funds first to develop online teacher education programs, including baccalaureate and associate pre-major programs.

SECTION 9.7.(c) The University of North Carolina and Community Colleges System Office shall report by September 1, 2008, and annually thereafter, to the Joint Legislative Education Oversight Commission, the State Board of Education, the Office of State Budget and Management, and the Fiscal Research Division of the General Assembly on the implementation of the UNC-NCCCS 2+2 E-Learning Initiative. This report shall include:

- (1) The courses and programs within the 2+2 E-Learning Initiative;
- (2) The total number of prospective teachers that have taken or are taking part in this initiative to date broken down by the current academic period and each of the previous academic periods since the program's inception;
- (3) The total number of teachers currently in the State's classrooms, by local school administrative unit, who have taken part in this initiative;
- (4) The change in the number of teachers available to schools since the program's inception;
- (5) The qualitative data from students, teachers, local school administrative unit personnel, university personnel, and community college personnel as to the impact of this initiative on our State's teaching pool; and
- (6) An explanation of the expenditures and collaborative programs between the North Carolina Community College System and The University of North Carolina, including recommendations for improvement.

UNC ENROLLMENT GROWTH REQUEST TO CONTAIN PREVIOUS ACADEMIC YEAR'S ACTUAL STUDENT CREDIT HOURS (SCH) AND FULL TIME EQUIVALENCIES (FTE)

SECTION 9.8. G.S. 116-11(9) reads as rewritten:

- "(9) a. The Board of Governors shall develop, prepare and present to the Governor and the General Assembly a single, unified recommended budget for all of the constituent institutions of The University of North Carolina. The recommendations shall consist of requests in three general categories: (i) funds for the continuing operation of each constituent institution, (ii) funds for salary increases for employees exempt from the State Personnel Act and (iii) funds requested without reference to constituent institutions, itemized as to priority and covering such areas as new programs and activities, expansions of programs and activities, increases in enrollments, increases to accommodate internal shifts and categories of persons served, capital improvements, improvements in levels of operation and increases to remedy deficiencies, as well as other areas. The president may present to the General Assembly an updated estimate of tuition, fees, and other receipts by June 15 of each year to be included in the budget for the following fiscal year.

- a1. The Board of Governors shall provide full documentation and justification of any enrollment change funding request at the time it is recommended. This documentation and justification shall include the most recent academic year's actual enrollment numbers in the same format in which the growth increase request is made. The actual enrollment numbers shall be the actual student credit hours (SCH) or full-time equivalencies (FTE).
- b. Funds for the continuing operation of each constituent institution shall be appropriated directly to the institution. Funds for salary increases for employees exempt from the State Personnel Act shall be appropriated to the Board in a lump sum for allocation to the institutions. Funds for the third category in paragraph a of this subdivision shall be appropriated to the Board in a lump sum for allocation to the institutions. The Board shall make allocations among the institutions in accordance with the Board's schedule of priorities and any specifications in the Current Operations Appropriations Act. When both the Board and the Director of the Budget deem it to be in the best interest of the State, funds in the third category may be allocated, in whole or in part, for other items within the list of priorities or for items not included in the list. Provided, nothing herein shall be construed to allow the General Assembly, except as to capital improvements, to refer to particular constituent institutions in any specifications as to priorities in the third category.
- c. The Director of the Budget may, on recommendation of the Board, authorize transfer of appropriated funds from one institution to another to provide adjustments for over or under enrollment or may make any other adjustments among institutions that would provide for the orderly and efficient operation of the institutions.
- d. Repealed by Session Laws 1987, c. 795, s. 27."

REVERT THE 2007-2008 APPROPRIATION FOR THE EDUCATION ACCESS REWARDS NORTH CAROLINA (EARN) SCHOLARS FUND

SECTION 9.9. Effective June 30, 2008, the unencumbered balance of the funds appropriated in 2007-2008 to The University of North Carolina Board of Governors and the State Education Assistance Authority in Section 9.7 of S.L. 2007-323 shall revert to the General Fund. The amount reverted shall be no less than twenty-seven million six hundred five thousand two hundred ten dollars (\$27,605,210).

HIGHER EDUCATION STUDIES/DISTANCE EDUCATION AND UNC ENROLLMENT GROWTH FUNDING FORMULAS

SECTION 9.10.(a) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2009-2010 Work Plan for the Program Evaluation Division of the General Assembly a study of the start-up and ongoing cost of distance education and compare it with the start-up and ongoing cost of on-campus education. The Program Evaluation Division shall submit the study to the Joint Legislative

Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

SECTION 9.10.(b) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2009-2010 Work Plan for the Program Evaluation Division of the General Assembly a comprehensive review of the full-time equivalencies (FTE) and student credit hours (SCH) enrollment growth funding formulas used by The University of North Carolina. In its study, the Program Evaluation Division shall consider and evaluate all of the following:

- (1) The assumptions contained within each element of the funding formulas.
- (2) Benchmark information related to specific elements within the formulas.
- (3) How a formula based on full-time equivalencies (FTE) compares with a formula based on Student Credit Hours (SCH).
- (4) The types of formulas used by other states to fund university systems; how those states use those formulas; the success of the formulas with regard to indicating future financial needs, providing equitable funding to different institutions within the system based on the size, mission, and growth of each institution; and the types of support programs, if any, addressed by the formulas.
- (5) The objectives that the formulas are designed to meet and whether those accurately reflect the goals of The University of North Carolina System.
- (6) How the current formulas should be modified, if at all, to more accurately predict The University of North Carolina System's future financial needs or whether different types of formulas would be more helpful.

The Program Evaluation Division shall submit the study to the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

LEGISLATIVE TUITION GRANT/REDEFINE PART-TIME STUDENT

SECTION 9.11.(a) G.S. 116-21.2 reads as rewritten:

"§ 116-21.2. Legislative tuition grants to aid students and licensure students attending private institutions of higher education.

(a) Grants for Students. – In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to institutions, or to persons attending these institutions, there is granted to each North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, to be determined by the General Assembly for each academic year which shall be distributed to the undergraduate student as provided by this subsection. A full-time North Carolina undergraduate student shall be awarded the full amount of the tuition grant provided by this section. A part-time North Carolina undergraduate student who is enrolled to take at least ~~nine~~six hours of academic credit per semester shall be awarded a tuition grant in an amount that is calculated on a pro rata basis.

(a1) Grants for Licensure Students. – The legislative tuition grant provided by this section shall also be granted to each full-time licensure student who is enrolled in a

program intended to result in a license in teaching or nursing at an approved institution. The legislative tuition grant provided by this section shall be awarded on a pro rata basis to any part-time licensure student who is enrolled to take at least ~~nine~~-six hours of undergraduate academic credit per semester in a program intended to result in a license in teaching or nursing at an approved institution. The legislative tuition grant and prorated legislative tuition grant authorized under this subsection shall be paid for undergraduate courses only. If a course is required for licensure, but is designated as both an undergraduate and graduate course, for purposes of this subsection, the course shall be considered an undergraduate course.

(b) Administration of Grants. – The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall not approve any grant until it receives proper certification from an approved institution that the student or licensure student applying for the grant is eligible. Upon receipt of the certification, the State Education Assistance Authority shall remit at the times as it prescribes the grant to the approved institution on behalf, and to the credit, of the student or licensure student.

(c) Student or Licensure Student Change of Status; Audits. – In the event a full-time student on whose behalf a grant has been paid in accordance with subsection (a) of this section or a full-time licensure student on whose behalf a grant has been paid in accordance with subsection (a1) of this section is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. If a part-time student on whose behalf a prorated grant has been paid in accordance with subsection (a) of this section or a part-time licensure student on whose behalf a prorated grant has been paid in accordance with subsection (a1) of this section is not enrolled and carrying a minimum academic load of ~~nine~~-six credit hours per semester in the undergraduate class as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. If the matriculated status of a full-time student or a full-time licensure student changes to a matriculated status of part-time student or part-time licensure student by the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund only the difference between the amount of the full-time grant awarded and the amount of the part-time grant that is awarded pursuant to this section. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and licensure students and credited grants paid on behalf of them.

(d) Shortfall. – In the event there are not sufficient funds to provide each eligible student or licensure student with a full or prorated grant as provided by subsection (a) of this section or a full or a prorated grant as provided by subsection (a1) of this section:

- (1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a), (a1), and (b) of this section; and
- (2) Each eligible student and licensure student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

(e) Reversions. – Any remaining funds shall revert to the General Fund."

SECTION 9.11.(b) This section applies to academic semesters beginning on or after July 1, 2008.

UNIVERSITY OF NORTH CAROLINA TO STUDY COASTAL SOUNDS WIND ENERGY

SECTION 9.12. The University of North Carolina shall study the feasibility of establishing wind turbines in the Pamlico and Albemarle Sounds. The study shall include an analysis of energy production potential (including the resulting benefits due to a reduction in dependence on fossil fuel combustion for generation of electricity), siting, ecological impacts, and statutory or regulatory barriers to construction and operation of one or more wind turbines and associated support and interconnection facilities in the coastal sounds. The study shall also consider the feasibility and potential synergistic benefits of co-siting wind turbines and artificial oyster reefs.

The Board of Governors shall use available funds from its budget in conducting this study and may apply for, receive, or accept grants and contributions from any source for the purposes of conducting the study. The Board of Governors shall report the results of this study to the House Committee on Energy and Energy Efficiency and the Senate Committee on Agriculture/Environment/Natural Resources by July 1, 2009.

AGRICULTURE RESEARCH STATIONS

SECTION 9.13. The Dean of the College of Agriculture and Life Sciences at North Carolina State University, the Dean of the School of Agriculture and Environmental Sciences at North Carolina Agricultural and Technical State University, and the Commissioner of Agriculture shall jointly study and develop a comprehensive strategic plan for the management of both: (i) the agriculture research stations that are currently jointly managed by North Carolina State University and the Department of Agriculture and Consumer Services, and (ii) the university research farm managed by North Carolina Agricultural and Technical State University. The plan shall identify ways to improve the efficiency and effectiveness of the research stations and university research farm. The plan shall be submitted to the Chairs of the House Agriculture Committee, the Senate Agriculture, Environment, and Natural Resources Committee, and the House and Senate Appropriations Subcommittees on Natural and Economic Resources no later than May 1, 2009.

STUDY OF STRUCTURE AND ORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 9.14. The Joint Legislative Program Evaluation Oversight Committee shall include in the 2008-2009 Work Plan for the Program Evaluation Division of the General Assembly a review and study of the structure and organization of the Department of Public Instruction and the State Board of Education. The Program Evaluation Division shall submit the study to the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, the Chairs of the Appropriations Committees of the Senate and the House of Representatives, and the Fiscal Research Division by December 31, 2008.

BIENNIAL PROJECTION OF UNC ENROLLMENT GROWTH

SECTION 9.15. Part 2A of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-30.7. Biennial projection of enrollment growth for The University of North Carolina.

By September 1 of each even-numbered year, the General Administration of The University of North Carolina shall provide to the Joint Education Legislative Oversight Committee and to the Office of State Budget and Management a projection of the total student enrollment in The University of North Carolina that is anticipated for the next biennium. The enrollment projection shall be divided into the following categories and shall include the projected growth for each year of the biennium in each category at each of the constituent institutions: undergraduate students, graduate students (students earning master's and doctoral degrees), first year professional students, and any other categories deemed appropriate by General Administration. The projection shall also distinguish between on-campus and distance education students. The projections shall be considered by the Director of the Budget when determining the amount the Director proposes to fund as the continuation requirement for the enrollment increase in the university system pursuant to G.S. 143C-3-5(b)."

UNIVERSITY OF NORTH CAROLINA AND DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY PLASTICS USE

SECTION 9.17. The University of North Carolina, in collaboration with the Division of Waste Management of the Department of Environment and Natural Resources shall study the current state, usage, and recycling of plastics (including, but not limited to, beverage bottles and plastic bags) in North Carolina. The study shall include an analysis of the following:

- (1) The impact of plastics on the environment and particularly on solid waste management in the State;
- (2) The current prevalence and utilization of recycling in the State's plastics waste stream;
- (3) The technical and regulatory barriers to increased recycling of plastics waste streams;
- (4) The current and potential benefits to the State's economy from enhancements in plastics recycling; and
- (5) The potential for substitution of biodegradable plastics and plastics manufactured from renewable materials for plastics manufactured from fossil fuels.

The study shall also include recommendations regarding potential policy or statutory changes necessary to encourage plastics recycling, as well as areas or issues where further research is needed.

The Board of Governors of The University of North Carolina and the Secretary of the Department of Environment and Natural Resources shall use available funds from their budgets in conducting this study and may apply for, receive, or accept grants and contributions from any source for the purposes of conducting the study. The Board of Governors and the Secretary shall report the results of this study to the House of Representatives Committee on Energy and Energy Efficiency and the Senate Committee on Agriculture/Environment/Natural Resources by May 1, 2009.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**NC RX FUNDS TRANSFER**

SECTION 10.1. The sum of three million five hundred thousand dollars (\$3,500,000) of the cash balance remaining in the NC Rx Program (Budget Code 536J50, Fund 1510) on July 1, 2008, 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 2008-2009 fiscal year in the following amounts and for the following purposes:

- (1) \$700,000 to HealthNet (Budget Code 536J30; Fund 1510),
- (2) \$2,300,000 to Community Health Centers (Budget Code 536E66, Fund 1510), and
- (3) \$500,000 to the North Carolina Housing Trust Fund (Budget Code 13010).

DHHS BUDGET FLEXIBILITY

SECTION 10.1A. Notwithstanding G.S. 143C-6-4, for the 2008-2009 fiscal year the Department of Health and Human Services may, with approval of the Office of State Budget and Management, take actions necessary to identify and realign or adjust the authorized budgets of the Department to fund payments for audit services provided by the Office of State Auditor and for data processing services billed by the State Information Technology Services office.

STATE COUNTY SPECIAL ASSISTANCE

SECTION 10.2. Section 10.13 of S.L. 2007-323 is amended by adding the following new subsection to read:

"SECTION 10.13.(c1) Effective January 1, 2009, the maximum monthly rate for residents in adult care home facilities shall be one thousand two hundred seven dollars (\$1,207) per month per resident unless adjusted by the Department in accordance with subsection (e) of this section."

AIDS DRUG ASSISTANCE PROGRAM

SECTION 10.3. Section 10.26 of S.L. 2007-323 reads as rewritten:

"SECTION 10.26.(a) For the 2007-2008 fiscal year ~~and the 2008-2009 fiscal year,~~ the Department may adjust the financial eligibility criterion of the ADAP up to an amount not exceeding two hundred fifty percent (250%) of the federal poverty level in order to serve as many eligible North Carolinians living with HIV disease as possible within existing resources plus any new federal resources. If the Department raises the eligibility limit above one hundred twenty-five percent (125%) of the federal poverty level and a waiting list develops as a result, the Department shall give priority on the waiting list to those individuals at or below one hundred twenty-five percent (125%) of the federal poverty level.

"SECTION 10.26.(b) For the 2008-2009 fiscal year, the Department may, within existing ADAP Program resources, adjust the financial eligibility criterion of the ADAP up to an amount not exceeding three hundred percent (300%) of the federal poverty level in order to serve as many eligible North Carolinians living with HIV disease as possible within existing resources plus any new federal resources. If a waiting list develops as a result of the eligibility criterion being raised, the Department shall give first priority to those individuals on the waiting list with income at or below one

hundred twenty-five percent (125%) of the federal poverty level, and second priority to those individuals with income above one hundred twenty-five percent (125%) and at or below two hundred fifty percent (250%) of federal poverty guidelines."

CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE

SECTION 10.4. Section 10.22 of S.L. 2007-323 reads as rewritten:

"SECTION 10.22.(a) Of funds appropriated in this act from the General Fund to the Department of Health and Human Services, the sum of two million five hundred thousand dollars (\$2,500,000) for the 2007-2008 fiscal year and the sum of ~~two million dollars (\$2,000,000)~~ for the three million dollars (\$3,000,000) for the 2008-2009 fiscal year shall be allocated for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) to provide grants-in-aid to local public health departments, American Indian tribes, and faith-based and community-based organizations to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to the health status of white persons. These grants shall focus on the use of preventive measures to support healthy lifestyles. The areas of focus on health status shall be infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and homicides and motor vehicle deaths.

The five hundred thousand dollars (\$500,000) in nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Health Disparities Initiative in the 2007-2008 fiscal year shall be awarded as a grant-in-aid to honor the memory of the following recently deceased members of the General Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, and William Martin. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina. These efforts shall include:

- (1) Providing enhanced education and outreach to minority populations on the prevention, diagnosis, and treatment of heart disease, breast cancer, diabetes, obesity, hypertension, sickle cell anemia, and HIV infection.
- (2) Addressing cultural and communication barriers to quality care by improving interpersonal processes between clinicians and patients.

The Secretary shall send to each grantee organization a letter stating that the award is made in honor of the memory of and in recognition of the recent deaths of Senators Robert Holloman, Jeanne Lucas, and William Martin and Representatives Bernard Allen, John Hall, and Howard Hunter.

"SECTION 10.22.(b) The Department of Health and Human Services shall report on the following with respect to funds appropriated to the CFEHDI program ~~in fiscal years 2005-2006, 2006-2007, and 2007-2008.~~ for the 2007-2008 and 2008-2009 fiscal years. The report shall address for each fiscal year:

- (1) Which community programs and local health departments received CFEHDI grants.
- (2) What amount of funding did each program or local health department receive.
- (3) Which of the minority populations were served by the programs or local health departments.
- (4) Which counties were served by the programs or local health departments.

- (5) What activities were planned and implemented by the programs or local health departments to fulfill the community focus of the CFEHDI program.

~~The report shall also contain a comprehensive evaluation of all grantees with regard to fulfilling the goals of the program, assessing the difference the funded activities have made in the community, and addressing and mitigating the health disparities identified in the Racial and Ethnic Health Disparities in North Carolina, Report Card 2006. In addition, the~~The Department shall solicit from the grantees their observations and recommendations on ways the CFEHDI program can best accomplish its goals. The report shall also include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State. The Department shall submit the report not later than October 1, 2009, 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."

NICOTINE REPLACEMENT THERAPY PROGRAMS

SECTION 10.4B. Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-18.6. Requirements for certain nicotine replacement therapy programs.

The Health and Wellness Trust Fund ("Trust Fund") or the Department of Health and Human Services ("Department") may contract for the operation of a tobacco-use cessation program through which the Trust Fund or the Department, as applicable, may engage agents or contractors for the purpose of (i) recommending to individuals over-the-counter nicotine replacement therapy products and supplying the products free of charge to the individual and (ii) discussing with the individual contraindications and all other aspects of over-the-counter nicotine replacement therapy. All medical aspects of the nicotine replacement therapy programs shall be supervised by a physician who is licensed under this Article to practice medicine and who is under contract to or employed by the Trust Fund or the Department, as applicable, for the purpose of supervising nicotine replacement therapy programs. The physician under contract with or employed by the Trust Fund or the Department, as applicable, shall be responsible for supervision of all agents or contractors of nicotine replacement therapy programs that provide nicotine replacement therapy services to members of the public. The Trust Fund or the Department, as contracting entity, shall report the name of the supervising physician to the North Carolina Medical Board."

HIV PREVENTION FUNDS

SECTION 10.5. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million dollars (\$2,000,000) for the 2008-2009 fiscal year shall be allocated for HIV Prevention for the following purposes:

- (1) Funding to local health departments, historically black colleges and universities, the Office of Minority Health and Health Disparities, and other community organizations for HIV counseling, testing, case management, and early medical interventions.
- (2) Funding to support peer-to-peer counseling efforts.

CHILD CARE FUNDS MATCHING REQUIREMENT

SECTION 10.6. Section 10.17 of S.L. 2007-323 reads as rewritten:

"**SECTION 10.17.(a)** No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of child care funds appropriated by this act unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a ~~fifteen percent (15%)~~ twenty percent (20%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).

"**SECTION 10.17.(b)** If funds are reallocated to local purchasing agencies in accordance with subsection (a) of this section, the Department of Health and Human Services shall evaluate the ~~fifteen percent (15%)~~ twenty percent (20%) local matching requirement to determine its effect on local purchasing agencies and whether the matching requirement should be adjusted. The Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2009."

CHANGES TO FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.7. Section 10.29 of S.L. 2007-323 reads as rewritten:

"**SECTION 10.29.(a)** The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

- (1) ~~\$390.00~~ \$475.00 per child per month for children aged birth through 5;
- (2) ~~\$440.00~~ \$581.00 per child per month for children aged 6 through 12; and
- (3) ~~\$490.00~~ \$634.00 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 10.29.(b)** The maximum rates for the State participation in the adoption assistance program are established ~~on a graduated scale~~ consistent with the foster care rates as follows:

- (1) ~~\$390.00~~ \$475.00 per child per month for children aged birth through 5;
- (2) ~~\$440.00~~ \$581.00 per child per month for children aged 6 through 12; and
- (3) ~~\$490.00~~ \$634.00 per child per month for children aged 13 through 18.

"**SECTION 10.29.(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 10.29.(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.

"**SECTION 10.29.(e)** The State and a county participating in foster care and adoption assistance shall each contribute fifty percent (50%) of the nonfederal share of the cost of care for a child placed by a county department of social services or child

placing agency in a family foster home or residential child care facility. A county shall be held harmless from contributing fifty percent (50%) of the nonfederal share of the cost for a child currently in a family foster home or residential child care facility until the child leaves foster care or experiences a placement change.

"SECTION 10.29.(f) The Department of Health and Human Services may establish foster care and adoption assistance rates based on the United States Department of Agriculture (USDA) 'Expenditures on Children by Families' index subject to State appropriations for each fiscal year.

"SECTION 10.29.(g) This section becomes effective January 1, 2009, and applies to payments made on or after that date."

TICKET TO WORK IMPLEMENTATION DATE

SECTION 10.8. The Department of Health and Human Services shall implement the Ticket to Work Program on July 1, 2008, whether or not the new MMIS is operational.

IMPLEMENTATION OF MMIS/CONTRACT PROVISION

SECTION 10.9.(a) Subsections (a) and (b) of Section 10.40D of S.L. 2007-323 read as rewritten:

"SECTION 10.40D.(a) The Department of Health and Human Services (Department) shall make full development of the replacement Medicaid Management Information System ~~(MMIS+)~~(MMIS) a top priority. During the development and implementation of ~~MMIS+,MMIS~~, the Department shall develop plans to ensure the timely and effective implementation of ~~future~~ enhancements to the system to provide the following capabilities:

- (1) Receiving and tracking premium or other payments required by law.
- (2) Compatibility with the administration of ~~NC Health Choice, NC Kids' Care, the State Employees' Health Plan, the Health Information System, and Medicaid waivers and the Medicare 646 waiver.~~System.

~~These enhancements shall not delay the procurement or implementation of the core system but shall be included in the development and implementation of the multipayer initiatives included in the MMIS program currently under development between the Department, the Federal Centers for Medicare and Medicaid Services, and the Office of Information Technology Services (ITS).~~ The Department shall make every effort to expedite the implementation of the enhancements. ITS shall work in cooperation with the Department to ensure the timely and effective implementation of the ~~core system~~ MMIS and enhancements. The contract between the Department and the contract vendor shall contain an explicit provision requiring that the MMIS have the capability to fully implement the administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the Cost of Services under the CAP-MR/DD, CAP Children's Program, and all relevant Medicaid waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must have detailed cost information for each requirement before signing the contract. Any contract between the Department and a vendor for the MMIS that does not contain the explicit provision required under this subsection is void on its face. Notwithstanding any other provision of law to the contrary, the Secretary of the Department of Health and Human Services does not have the authority to sign a contract for the MMIS if the contract does not contain the explicit provision required under this section.

"SECTION 10.40D.(b) Notwithstanding G.S. 114-2.3, the Department of Health and Human Services shall engage the services of private counsel with the pertinent information technology and computer law expertise to review requests for proposals and to negotiate and review contracts associated with MMIS. The counsel engaged by the Department shall review the MMIS contract between the Department of Health and Human Services and the vendor to ensure that the requirements of subsection (a) of this section are met in their entirety."

SECTION 10.9.(b) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of three hundred thousand dollars (\$300,000) for the 2008-2009 fiscal year may be used to contract with an outside consultant to serve as project manager/coordinator to oversee the development and implementation of the MMIS project.

SECTION 10.9.(c) The Department of Health and Human Services shall develop a comprehensive schedule for the development and implementation of the MMIS that fully incorporates federal and State project management and review requirements. The Department shall ensure that the schedule is as accurate as possible. The initial schedule that includes all activities up to contract award must be provided by October 1, 2008. The design, development, and implementation schedule must be provided by March 1, 2009, as part of the Department's quarterly MMIS reporting requirements. The Department shall submit the schedule to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. Any change to key milestones in either schedule shall be immediately reported to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division with a full explanation of the reason for the change.

SECTION 10.9.(d) Beginning March 1, 2009, the Department shall make quarterly reports on changes in the functionality and projected costs of the MMIS. The first quarterly submission shall contain a final report on the contract award to include total costs and functionality of the MMIS. Each report shall be made to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. A copy of the final report on the contract award shall also be submitted to the Joint Legislative Commission on Governmental Operations.

SECTION 10.9.(e) Upon initiation of the NC MMIS Program Reporting and Analytics Project and the Division of Health Services Regulation (DHSR) Project, the Department shall submit all reports regarding functionality, schedule, and cost in the next regular cycle of reporting identified in subsections (c) and (d) of this section. The Department shall ensure that the solution developed in the Reporting and Analytics Project supports the capability, in its initial implementation, to interface with the North Carolina Teachers and State Employees Health Plan. The costs for this capability shall be negotiated prior to the award of the Reporting and Analytics contract. The Reporting and Analytics solution must be completed simultaneously with the replacement MMIS.

MEDICAID POLICY CHANGE

SECTION 10.10.(a) Section 10.36(b) of S.L. 2007-323 reads as rewritten:

"SECTION 10.36.(b) Policy. –

- (1) 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.
- (2) Cost-containment programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.
- (3) Fraud and abuse. – The Division of Medical Assistance, Department of Health and Human Services, shall 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.
- (4) Medical policy. – 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 medical 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. For medical policy changes exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year that are required for compliance with federal law, the Department shall submit the proposed medical policy or policy interpretation change with the fiscal analysis to the Office of State Budget and Management prior to implementing the change. 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 10.10.(b) Section 10.36(d)(21) of S.L. 2007-323 reads as rewritten:

"SECTION 10.36.(d) Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services 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. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

...

- (21) Personal care services. – Payment in accordance with the State Plan developed by the Department of Health and Human Services. ~~Effective October 1, 2007, the Department of Health and Human Services shall impose prior authorization on all personal care services. Criteria for prior authorization shall be developed in consultation with the Physician Advisory Group of the North Carolina Medical Society and shall include a requirement that a determination and notification of approval or denial of personal care services shall be made within seven working days of receipt of the prior authorization request. The Department shall provide periodic data on recipients of personal care services to Community Care of North Carolina. Community Care of North Carolina shall assist the Department in assessing personal care services for medical necessity. The Department shall report on the implementation of prior authorization of all personal care services 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 May 1, 2008. The report on implementation of prior authorization shall address the following:~~
- a. ~~Criteria for prior authorization developed in consultation with the North Carolina Physician Advisory Group.~~
 - b. ~~Policies and procedures for the prior authorization program.~~
 - c. ~~Use of the Uniform Screening Tool and the Integrated Assessment Tool for Medicaid Long Term Care Services in determining the need for personal care services.~~
 - d. ~~Cost of implementing a prior authorization system.~~
 - e. ~~Estimated costs savings from the implementation of a prior authorization system for personal care services."~~

SECTION 10.10.(c) Section 31.16.1(d) of S.L. 2007-323 reads as rewritten:

"**SECTION 31.16.1.(d)** Subsection (a) of this section becomes effective October 1, 2007, and applies to Medicaid claims paid by the State on or after that date and ends with claims paid by the State through May 31, 2008. Subsection (b) of this section becomes effective June 1, 2008, and applies to Medicaid claims paid by the State on or after that date and ends with claims paid by the State through May 31, 2009. Subsection (c) of this section ~~becomes effective June 1, 2009, and~~ applies to Medicaid claims paid by the State on and after June 1, 2009, or after that date."

SECTION 10.10.(d) Section 10.36(e)(1) of S.L. 2007-323 reads as rewritten:

"**SECTION 10.36.(e)** Provider payments performance bonds and visits. –

- (1) ~~Payment is limited to~~ Subject to the provisions of this subdivision, the Department may require Medicaid-enrolled providers ~~that~~ to 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 require the purchase of a performance bond or the submission of an executed letter of credit or financial instrument as a condition of initial enrollment, reenrollment, or reinstatement if:

- a. The provider fails to demonstrate financial viability,
- b. The Department determines there is significant potential for fraud and abuse,
- c. The Department otherwise finds it is in the best interest of the Medicaid program to do so.

The Department shall specify the circumstances under which a performance bond or executed letter of credit will be required.

(1a) The Department may waive or limit the requirements of this paragraph for individual Medicaid-enrolled providers or for one or more classes of Medicaid-enrolled providers based on the following:

- a. The provider's or provider class's dollar amount of monthly billings to Medicaid, ~~or the~~
- b. The length of time ~~the an individual~~ provider has been ~~licensed~~ licensed, endorsed, certified, or accredited in this State to provide services.
- c. The length of time an individual provider has been enrolled to provide Medicaid services in this State.
- d. The provider's demonstrated ability to ensure adequate recordkeeping, staffing, and services.
- e. The need to ensure adequate access to care.

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 shall provide to the affected provider written notice of the findings upon which its action is based and shall include the performance bond requirements and the conditions under which a waiver or limitation apply. Not later than March 1, 2009, the Department shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division. The report shall indicate the number of performance bonds required, the classes of providers required to purchase a performance bond, the number of waivers or limitations granted, and the classes of providers granted a waiver or limitation from the performance bond requirements. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision."

SECTION 10.10.(e) Beginning August 1, 2008, the contractor managing the State Maximum Allowable Cost (SMAC) List shall provide information to the Department on the savings attributable to adding the specialty drugs to the SMAC List. The contractor shall report the information to the Department on a monthly basis to ensure savings are consistent with the savings required by this act. During the period of July 1 to December 31, 2008, this subsection shall apply to specialty drugs costing in excess of one thousand five hundred dollars (\$1,500). If on December 31, 2008, savings are not being achieved, the Department shall report this information immediately to the

Joint Legislative Commission on Governmental Operations and the Fiscal Research Division and may add additional specialty drugs to the SMAC List necessary to achieve these savings by June 30, 2009. Not later than March 1, 2009, 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 savings attributable to adding the specialty drugs to the SMAC List.

DMA BUDGET FLEXIBILITY

SECTION 10.10A.(a) Budget approval by the Office of State Budget and Management is required before the Division of Medical Assistance may enter into any new contract and before the Division may renew or amend existing contracts that exceed the existing contract amounts.

SECTION 10.10A.(b) The Department of Health and Human Services, Division of Medical Assistance, shall make every effort to achieve savings within its operational budget and shall take the steps necessary to achieve overall budget reductions from the General Fund required by this act. Notwithstanding G.S. 143C-6-4(b)(3), the Department may use funds appropriated to the Division of Medical Assistance to address shortfalls in funds for direct services within the Medical Assistance Payments budget of the Division of Medical Assistance.

SECTION 10.10A.(c) Notwithstanding G.S. 143C-6-4(b)(3), the Department of Health and Human Services may use funds appropriated to the Division of Medical Assistance to address contract shortfalls within the Division of Medical Assistance budget.

SECTION 10.10A.(d) Not later than March 1, 2009, 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, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on its efforts to cover the contract shortfall in the Division of Medical assistance.

CCNC CHRONIC DISEASE/MEDICAL HOME AND PATIENT MODEL PROGRAM

SECTION 10.10C. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, the sum of five hundred thousand dollars (\$500,000) for the 2008-2009 fiscal year shall be used to develop a plan for the implementation of a medical home and patient-centered collaborative model program. The model program will build on and enhance CCNC's success in reducing the cost of treating chronic disease among Medicaid enrollees through its initial implementation in six to eight counties. The model program will also allow CCNC to implement its disease management, patient-centered, medical home model to a greater number of patients, including those who will be included in the pending Medicare 646 waiver.

EXPAND HEALTH CHOICE/NC KIDS' CARE

SECTION 10.12.(a) Section 10.48 of S.L. 2007-323 reads as rewritten:

"**SECTION 10.48.(a)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, the sum of three hundred sixty-eight thousand dollars (\$368,000) for the 2007-2008 fiscal year shall be used by

the Department of Health and Human Services to produce a report that identifies the most cost-efficient and cost-effective method for developing and implementing a program of comprehensive health care benefits within available funding for children ages 0 through 18 in families with annual incomes between two hundred percent (200%) and three hundred percent (300%) of the federal poverty level. The report shall consider and address the following:

- (1) Congress' reauthorization of the State Children's Health Insurance Program (SCHIP) with respect to:
 - a. The amount of federal funds authorized for each of the fiscal years covered in the reauthorization;
 - b. The number of fiscal years that federal funding awarded to the states remains available to each state;
 - c. The adequacy of the formula by which federal funds are distributed to the states; and
 - d. The ability of states to expand SCHIP coverage to children whose family incomes exceed two hundred percent (200%) of the federal poverty level.

The Department shall determine whether the most effective use of State funds is to develop a program that expands access to health insurance for children whose family income exceeds two hundred percent (200%) of the federal poverty level through NC Health Choice or the State Medical Assistance Program.

- (2) Eligibility and benefits are not an entitlement, are for legal residents of North Carolina, and are subject to availability of State and federal funds, and State and federal requirements.
- (3) The most cost-effective use of limited State funds to offer health care services to children in families between two hundred percent (200%) and three hundred percent (300%) of the federal poverty level.
- (4) Children enrolled in the program must be ineligible for Medicaid, Medicare, or other government-sponsored health insurance. The Department shall study whether children must also be without private health insurance for a specified amount of time, e.g. six months.
- (5) The health care benefits covered in the proposed expansion program shall not exceed the benefits currently covered by the NC Health Choice.
- (6) The establishment of cost-sharing measures for the families of children with an income above two hundred percent (200%) of the federal poverty level, including:
 - a. A monthly premium per child that is at an optimal level that simultaneously is affordable, encourages participation by families, controls costs, and provides revenue to reduce the cost of the program to the State. The amount of the premium may increase as income increases above two hundred percent (200%) of the federal poverty level.
 - b. Increased co-payments and cost-sharing that are affordable and sufficient to control costs, while not discouraging families from seeking and continuing prescribed treatment for children.
 - c. A deductible that is to be applied to certain health care benefits.

- d. A limit on out-of-pocket expenses that is no more than five percent (5%) of family income.
- (7) The establishment of a comprehensive annual benefit limit per child that is no more than the current annual benefit limit under NC Health Choice.
- (8) The most cost-effective and efficient way of administering and managing enrollment in the program and the collection of premiums. This may include having the current administrator of NC Health Choice be the entity to collect premiums, or designating some other benefit management or administrative entity to do so, including the Department.

"SECTION 10.48.(b) Not later than January 1, 2008, the Department shall submit an interim report of its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division. The Department shall submit its final report not later than February 1, 2008. It is the intent of the General Assembly to review the Department's recommendations before the Department implements a program to expand access to health insurance to children above two hundred percent (200%) of the federal poverty level effective July 1, 2008, or upon approval of all required federal waivers, whichever occurs later level.

~~**"SECTION 10.48.(c)** Of the funds appropriated in this act to the Department of Health and Human Services, the sum of seven (\$7,000,000) for the 2008-2009 fiscal year shall be used to implement a program to expand access to health insurance to children above two hundred percent (200%) of the federal poverty level effective July 1, 2008.~~

"SECTION 10.48.(d) The Department of Health and Human Services, Division of Medical Assistance, shall implement a health care assistance program, NC Kids' Care, to provide health insurance coverage to children in families with incomes above two hundred percent (200%) and not more than two hundred fifty percent (250%) of the federal poverty level, by expanding the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes. Except as otherwise provided, all the requirements of Part 8 of Article 2 of Chapter 108A of the General Statutes shall apply to the NC Kids' Care program. The Department shall submit any State Child Health Plan amendments required to implement this section. Eligibility for and benefits under this program are not an entitlement and are subject to availability of funds and other changes to State and federal law.

"SECTION 10.48.(e) Eligibility. – The Department may enroll eligible children based on the availability of funds. Following are the eligibility and other requirements for participation in NC Kids' Care. Children must:

- (1) Be between the ages of birth through 18 years of age;
- (2) Be ineligible for Medicaid, Medicare, or other government sponsored health insurance, except that any child covered under G.S. 108A-70.21(g) as of the effective date of this section shall be eligible for participation in NC Kids' Care as provided in subsection (o) of this section;
- (3) If permitted by federal law, have been uninsured for a period of time established by the Department in accordance with federal law. A child enrolled in NC Health Choice pursuant to Part 8 of Article 1 of

Chapter 108A of the General statutes immediately prior to enrollment under NC Kids' Care shall not be required to satisfy a waiting period in order to receive coverage under NC Kids' Care.

- (4) Be in a family whose family income is above two hundred percent (200%) through two hundred fifty percent (250%) of the federal poverty level;
- (5) Be a resident of this State, meet applicable federal citizenship and immigration requirements, and be eligible under federal law; and
- (6) Have paid the monthly premiums required under this section.

"SECTION 10.48.(f) Benefits and Limitations. – Except as otherwise provided in this section for eligibility and cost-sharing requirements, health benefits coverage provided to children eligible for NC Kids' Care shall be the same as coverage provided under Part 8 of Article 2 of Chapter 108A of the General Statutes.

"SECTION 10.48.(g) Community Care of North Carolina. – The Department of Health and Human Services shall provide services to children enrolled in the NC Kids' Care program through Community Care of North Carolina and shall pay Community Care of North Carolina providers a care management fee for these services as allowed under Medicaid.

"SECTION 10.48.(h) Cost-Sharing. – The Department shall require NC Kids' Care enrollees to contribute to the cost of their care through the use of deductibles, co-payments, and premiums as follows:

- (1) No annual enrollment fee. – In lieu of an annual enrollment fee, a monthly premium shall be charged for each child or family enrolled in NC Kids' Care. The Department shall establish a procedure for sharing a portion of premium receipts with each county department of social services to cover the cost of determining eligibility for services under NC Kids' Care.
- (2) Premiums. – The premium amount charged for each child or family shall vary depending on family income. Enrollees shall pay monthly premiums as follows:
 - a. Enrollees whose family income is above two hundred percent (200%) through two hundred twenty-five percent (225%) of the federal poverty level shall pay a monthly premium not to exceed thirty dollars (\$30.00) per child.
 - b. Enrollees whose family income is above two hundred twenty-five percent (225%) through two hundred fifty percent (250%) of the federal poverty level shall pay a monthly premium not to exceed sixty dollars (\$60.00) per child.
- (3) Co-payments. – NC Kids' Care enrollees shall be responsible for co-payments to providers as follows:
 - a. Ten dollars (\$10.00) per child for each primary care physician visit;
 - b. Twenty-five dollars (\$25.00) per child for each specialty care physician visit;
 - c. Twenty-five dollars (\$25.00) per child for each physical therapy, occupational therapy, or speech therapy visit;
 - d. Thirty dollars (\$30.00) per child for each outpatient hospital visit;
 - e. Fifty dollars (\$50.00) per child for each inpatient hospital visit;

- f. Twenty dollars (\$20.00) per child for durable medical equipment, except there shall be no co-payment required for diabetic supplies;
 - g. One hundred dollars (\$100.00) for each emergency room visit, except the co-payment is waived if the enrollee is admitted to the hospital;
 - h. One hundred fifty dollars (\$150.00) for each ambulance service, except the co-payment is waived if the enrollee is admitted to the hospital;
 - i. Outpatient prescription drugs, as follows:
 - 1. Five dollars (\$5.00) for each generic prescription drug, for each brand-name prescription drug for which there is no generic substitution available, and for each covered over-the-counter medication; and
 - 2. Twenty dollars (\$20.00) for each brand-name prescription drug for which there is a generic substitution available.
- (4) Deductible. – The Department may establish an annual deductible not to exceed two hundred fifty dollars (\$250.00) per child.
- (5) The Department shall establish maximum annual cost-sharing limits per individual or family, provided that the total annual aggregate cost-sharing, including premiums, with respect to all children in a family receiving benefits under this section shall not exceed five percent (5%) of the family's income for the year involved.

"SECTION 10.48.(i) Enrollment in NC Kids' Care shall not exceed 15,000 children for the 2008-2009 fiscal year. This enrollment cap shall not be exceeded even if State and federal funds are available to enroll additional children for the current fiscal year.

"SECTION 10.48.(j) The nonfederal costs of NC Kids' Care shall be paid with State funds and enrollee premiums. Counties shall not be required to share in the nonfederal costs of NC Kids' Care.

"SECTION 10.48.(k) To the extent allowed by federal law, providers of services under NC Kids' Care shall be paid at rates equivalent to Medicaid rates, less any applicable co-payments or deductibles.

"SECTION 10.48.(l) Administration of NC Kids' Care shall be in accordance with Part 8 of Article 2 of Chapter 108A of the General Statutes.

"SECTION 10.48.(m) Enrollees covered under G.S. 108A-70.21(g) prior to the effective date of subsection (n) of this section may choose to continue coverage under that section through the end of their buy-in coverage period or enroll in NC Kids' Care provided they meet the eligibility requirements, pay the applicable premium, and notify their county department of social services within 60 days of receiving notice of their potential eligibility under NC Kids' Care. For any enrollee electing to transfer coverage from the buy-in program to NC Kids' Care, coverage under NC Kids' Care shall become effective the first day of the next month immediately following the month in which they notified their county department of social services of their intent to enroll in NC Kids' Care.

"SECTION 10.48.(n) This section becomes effective July 1, 2009, or upon the reauthorization of SCHIP. The Department shall not apply for a State Child Health Plan amendment to implement NC Kids' Care until the US Congress acts to reauthorize the State Children's Health Insurance Program with sufficient funding to support the current

NC Health Choice program and the provisions of this section. At the time the Department has determined that SCHIP has been reauthorized with sufficient funds, the Department will move forward as quickly as possible to implement NC Kids' Care."

SECTION 10.12.(b) G.S. 108A-70.21(c) reads as rewritten:

"(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) through two hundred percent (200%) of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees."

SECTION 10.12.(c) G.S. 108A-70.21(g) reads as rewritten:

"(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty five percent (225%) of the federal poverty level fifty percent (250%) of the federal poverty level and up to and including two hundred seventy-five percent (275%) of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The ~~same~~ benefits, copayments, and other conditions of enrollment under the Program shall apply applicable to extended coverage purchased under this ~~subsection~~ subsection shall be the same as those applicable to an NC Kids' Care enrollee whose family income equals two hundred fifty percent (250%) of the federal poverty level."

NC HEALTH CHOICE TRANSITION

SECTION 10.13.(a) G.S. 135-39.5(23), 135-39.6(d), and 135-39.6A(c) are repealed.

SECTION 10.13.(b) G.S. 135-42 reads as rewritten:

"§ 135-42. Undertaking Administration and processing of Program claims.

(a) The State of North Carolina undertakes to make available a health insurance program for ~~children (hereinafter called the "Program")~~ children (Program), which shall be called North Carolina Health Choice for Children. The Program shall ~~to~~ provide comprehensive acute medical care to low-income, uninsured children who are residents of this State and who meet the eligibility requirements established for the Program under Part 8 of Article 2 of Chapter 108A of the General Statutes. ~~The Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees (hereinafter called the "Plan") shall administer the Program under this Part and shall carry out their duties and responsibilities in accordance with Parts 2 and 3 of this Article and with applicable provisions of Part 8 of Article 2 of Chapter 108A. The Plan's self insured indemnity program shall not incur any financial obligations for the Program in excess of the amount of funds that the Plan's self insured indemnity program receives for the Program. Except as provided in this Part, the Program shall be administered by the Department of Health and Human Services in accordance with Part 8 of Article 2 of Chapter 108A of the General Statutes and as required under applicable federal law.~~

(a1) Notwithstanding any other provision of law, the Secretary of the Department of Health and Human Services shall delegate the responsibility for the administration and processing of claims for benefits provided under the Program to the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees (hereinafter called the "Plan") until such date, but not later than July 1, 2010, the Secretary determines that the Department is prepared to assume some or all of these responsibilities. In administering the processing of claims for benefits, the Executive Administrator and Board of Trustees shall have the same type of powers and duties as provided for these purposes under the Predecessor Plan. For the purposes of this Part, "Predecessor Plan" means the "North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in effect prior to July 1, 2008." The claims payments shall be made against accounts maintained by the Department of Health and Human Services. The Executive Administrator and Board of Trustees shall establish premium rates for benefits provided under this Part. The Department of Health and Human Services shall, from State and federal appropriations and from any other funds made available for the Program, make payments to the Plan as determined by the Plan for its administration, claims processing, and other services delegated by the Secretary to provide coverage for acute medical care for children eligible for benefits provided under the Program. The Plan shall not incur any financial obligations for the Program in excess of the amount of funds that the Plan receives for the Program.

(b) The benefits provided under the Program shall be equivalent to the Teachers' and State Employees' Comprehensive Major Medical Plan (hereafter "Predecessor Plan") in effect through June 30, 2008, and as provided under Part 8 of Article 2 of Chapter 108A of the General Statutes. and made available through the Plan pursuant to Articles 2 and 3 of this Chapter and as provided under G.S. 108A-70.21(b) and administered by the Plan's Executive Administrator and Board of Trustees. To the extent there is a conflict between the provisions of Part 8 of Article 2 of Chapter 108A and Part 3 of this Article the Predecessor Plan pertaining to eligibility, fees, deductibles, copayments, and lifetime maximum benefits, and other cost-sharing charges, the provisions of Part 8 of Article 2 of Chapter 108A shall control. In administering the benefits provided by this Part, the Executive Administrator and Board of Trustees shall have the same type of powers and duties that are provided under Part 3 of this Article the Predecessor Plan for hospital and medical benefits.

(c) The benefits authorized by this Part are available only to children who are residents of this State and who meet the eligibility requirements established for the Program under Part 8 of Article 2 of Chapter 108A of the General Statutes."

SECTION 10.13.(c) Part 5 of Article 3 of Chapter 135 of the General Statutes is amended by adding the following new sections to read:

"§ 135-43. Child health insurance fund.

There is established a Child Health Insurance Fund. All premium receipts or any other receipts, including earnings on investments, occurring or arising in connection with acute medical care benefits provided under the Program shall be deposited into the Child Health Insurance Fund. Disbursements from the Child Health Insurance Fund shall include any and all amounts required to pay the benefits and administrative costs of the Health Insurance Program for Children.

"§ 135-44. Data reporting.

The Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees shall provide to the Department:

- (1) Data as necessary and in sufficient detail to meet federal reporting requirements under Title XXI; and
- (2) Data showing cost-sharing paid by Program enrollees to assist the Department in monitoring and ensuring that enrollees do not exceed the Program's cost of sharing limitations.
- (3) Data as necessary and in sufficient detail to meet the data collections and reporting requirements pursuant to G.S. 108A -70.27."

SECTION 10.13.(d) G.S. 108A-70.18 reads as rewritten:

"§ 108A-70.18. Definitions.

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

- (1) "Comprehensive health coverage" means creditable health coverage as defined under Title XXI.
- (2) "Family income" has the same meaning as used in determining eligibility for the Medical Assistance Program.
- (3) "FPL" or "federal poverty level" means the federal poverty guidelines established by the United States Department of Health and Human Services, as revised each April 1.
- (4) "Medical Assistance Program" means the State Medical Assistance Program established under Part 6 of Article 2 of Chapter 108A of the General Statutes.
- (4a) "Predecessor Plan" means the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in effect prior to July 1, 2008.
- (5) "Program" means The Health Insurance Program for Children established in this Part.
- (6) "State Plan" means the State Child Health Plan for the State Children's Health Insurance Program established under Title XXI.
- (7) "Title XXI" means Title XXI of the Social Security Act, as added by Pub. L. 105-33, 111 Stat. 552, codified in scattered sections of 42 U.S.C. (1997).
- (8) "Uninsured" means the applicant for Program benefits is not covered under any private or employer-sponsored comprehensive health insurance plan on the date of enrollment."

SECTION 10.13.(e) G.S. 108A-70.20 reads as rewritten:

"§ 108A-70.20. Program established.

The Health Insurance Program for Children is established. The Program shall be known as North Carolina Health Choice for Children, and it shall be administered by the Department of Health and Human Services in accordance with this Part and as required under Title XXI and related federal rules and regulations. Administration of Program benefits and claims processing shall be as provided under Part 5 of Article 3 of Chapter 135 of the General Statutes."

SECTION 10.13.(f) Effective July 1, 2008, G.S. 108A-70.21 reads as rewritten:

"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

- (1) Children must:
 - a. Be between the ages of 6 through 18;
 - b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
 - c. Be uninsured;
 - d. Be in a family whose family income is above one hundred percent (100%) through two hundred percent (200%) of the federal poverty level;
 - e. Be a resident of this State and eligible under federal law; and
 - f. Have paid the Program enrollment fee required under this Part.
- (2) Proof of family income and residency and declaration of uninsured status shall be provided by the applicant at the time of application for Program coverage. The family member who is legally responsible for the children enrolled in the Program has a duty to report any change in the enrollee's status within 60 days of the change of status.
- (3) If a responsible parent is under a court order to provide or maintain health insurance for a child and has failed to comply with the court order, then the child is deemed uninsured for purposes of determining eligibility for Program benefits if at the time of application the custodial parent shows proof of agreement to notify and cooperate with the child support enforcement agency in enforcing the order.

If health insurance other than under the Program is provided to the child after enrollment and prior to the expiration of the eligibility period for which the child is enrolled in the Program, then the child is deemed to be insured and ineligible for continued coverage under the Program. The custodial parent has a duty to notify the Department within 10 days of receipt of the other health insurance, and the Department, upon receipt of notice, shall disenroll the child from the Program. As used in this paragraph, the term "responsible parent" means a person who is under a court order to pay child support.
- (4) Except as otherwise provided in this section, enrollment shall be continuous for one year. At the end of each year, applicants may reapply for Program benefits.

(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the ~~State Health Plan for Teachers and State Employees, including optional prepaid plans.~~ Predecessor Plan.

In addition to the benefits provided under the ~~Plan,~~ Predecessor Plan, the following services and supplies are covered under the Health Insurance Program for Children established under this Part:

- (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once during a 12-month period, fluoride applications twice during a 12-month period, fluoride varnish, sealants, simple extractions, therapeutic pulpotomies, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth. No benefits are to be provided for services and

~~materials under this subsection that are not performed by or upon the direction of a dentist, doctor, or other professional provider approved by the Plan nor for services and materials that do not meet the standards accepted by the American Dental Association.~~

- (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. Optical services, supplies, and solutions must be obtained from licensed or certified ophthalmologists, optometrists, or optical dispensing laboratories. Eyeglass lenses are limited to single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this subsection. Eyeglass frames are limited to those made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered by this subsection require ~~prior approval of the Plan. Upon prior approval by the Plan,~~ prior approval. Upon prior approval refractions may be covered more often than once every 12 months.
- (3) Hearing: Auditory diagnostic testing services and hearing aids and accessories when provided by a licensed or certified audiologist, otolaryngologist, or other approved hearing aid specialist approved by the Plan. Prior approval of the Plan specialist. Prior approval is required for hearing aids, accessories, earmolds, repairs, loaners, and rental aids.
- (4) Over-the-counter medications: Selected over-the-counter medications provided the medication is covered under the State Medical Assistance Plan. Coverage shall be subject to the same policies and approvals as required under the Medicaid program.
- (5) Routine diagnostic examinations and tests: annual routine diagnostic examinations and tests, including x-rays, blood and blood pressure checks, urine tests, tuberculosis tests, and general health check-ups that are medically necessary for the maintenance and improvement of individual health are covered.

~~Effective January 1, 2006, the~~ The Department shall provide services to children enrolled in the NC Health Choice Program through Community Care of North Carolina and shall pay Community Care of North Carolina providers for these services as allowed under Medicaid.

(b1) Payments. – Prescription drug providers shall accept as payment in full, for outpatient prescriptions filled, amounts allowable for prescription drugs under Medicaid. For all other providers, ~~effective no later than January 1, 2006,~~ services provided to children enrolled in the Program shall be provided at rates equivalent to one hundred ~~fifteen percent (115%)~~ percent (100%) of Medicaid rates, less any co-payments assessed to enrollees under this Part. ~~Effective July 1, 2006, services provided to these children shall be provided at rates equivalent to one hundred percent (100%) of Medicaid rates, less any co-payments assessed to enrollees under this Part. Effective until rates equivalent to one hundred fifteen percent (115%) of Medicaid rates become~~

~~effective, providers of services to Program enrollees shall accept as payment in full for services rendered the maximum allowable charges under the State Health Plan for Teachers and State Employees for services less any co-payments assessed to enrollees under this Part.~~

(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees.

(d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing charges for families covered under the Program whose family income is at or below one hundred fifty percent (150%) of the federal poverty level, except that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each outpatient generic prescription ~~drug and drug~~, for each outpatient brand-name prescription drug for which there is no generic substitution ~~available~~available, and for each covered over-the-counter medication. The fee for each outpatient brand-name prescription drug for which there is a generic substitution available is three dollars (\$3.00). Families covered under the Program whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be responsible for copayments to providers as follows:

- (1) Five dollars (\$5.00) per child for each visit to a provider, except that there shall be no copayment required for well-baby, well-child, or age-appropriate immunization services;
- (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- (3) A one dollar (\$1.00) fee for each outpatient generic prescription ~~drug and drug~~, for each outpatient brand-name prescription drug for which there is no generic substitution ~~available~~available, and for each covered over-the-counter medication. The fee for each outpatient brand-name prescription drug for which there is a generic substitution available is ten dollars (\$10.00).
- (4) Twenty dollars (\$20.00) for each emergency room visit unless:
 - a. The child is admitted to the hospital, or
 - b. No other reasonable care was available as determined by the ~~Claims Processing Contractor of the State Health Plan for Teachers and State Employees~~Department.

Copayments required under this subsection for prescription drugs apply only to prescription drugs prescribed on an outpatient basis.

(e) Cost-Sharing Limitations. – ~~The total annual aggregate cost sharing, including fees, with respect to all children in a family receiving Program benefits under this Part shall not exceed five percent (5%) of the family's income for the year involved.~~

~~To assist the Department in monitoring and ensuring that the limitations of this subsection are not exceeded, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees shall provide data to the Department showing cost sharing paid by Program enrollees. The department shall~~

establish maximum annual cost-sharing limits per individual or family, provided that the total annual aggregate cost-sharing, including enrollment fees, with respect to all children in a family receiving benefits under this section shall not exceed five percent (5%) of the family's income for the year involved.

(f) Coverage From Private Plans. – The Department shall, from funds available for the Program, pay the cost for dependent coverage provided under a private insurance plan for persons eligible for coverage under the Program if all of the following conditions are met:

- (1) The person eligible for Program coverage requests to obtain dependent coverage from a private insurer in lieu of coverage under the Program and shows proof that coverage under the private plan selected meets the requirements of this subsection;
- (2) The dependent coverage under the private plan is actuarially equivalent to the coverage provided under the Program and the private plan does not engage in the exclusive enrollment of children with favorable health care risks;
- (3) The cost of dependent coverage under the private plan is the same as or less than the cost of coverage under the Program; and
- (4) The total annual aggregate cost-sharing, including fees, paid by the enrollee under the private plan for all dependents covered by the plan, do not exceed five percent (5%) of the enrollee's family income for the year involved.

The Department may reimburse an enrollee for private coverage under this subsection upon a showing of proof that the dependent coverage is in effect for the period for which the enrollee is eligible for the Program.

(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty-five percent (225%) of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The same benefits, copayments, and other conditions of enrollment under the Program shall apply to extended coverage purchased under this subsection.

(h) No State Funds for Voluntary Participation. – No State or federal funds shall be used to cover, subsidize, or otherwise offset the cost of coverage obtained under subsection (f) of this section.

(i) No Lifetime Maximum Benefit Limit. – Benefits provided to an enrollee in the Program shall not be subject to a maximum lifetime limit."

SECTION 10.13.(g) G.S. 108A-70.22 is repealed.

SECTION 10.13.(h) G.S. 108A-70.23 reads as rewritten:

"§ 108A-70.23. Services for children with special needs established; definition; eligibility; services; limitation; recommendations; no entitlement.

(a) [Special Needs Services Authorized. –] The Department shall, from federal funds received and State funds appropriated for the Program, pay for services for children with special needs as authorized under this section. As used in this section, the term "children with special needs" or "special needs child" means children who have been diagnosed as having one or more of the following conditions which in the opinion of the diagnosing physician (i) is likely to continue indefinitely, (ii) interferes with daily

routine, and (iii) require extensive medical intervention and extensive family management:

- (1) Birth defect, including genetic, congenital, or acquired disorders;
- (2) Developmental disability as defined under G.S. 122C-3;
- (3) Mental or behavioral disorder; or
- (4) Chronic and complex illnesses.

(b) Eligibility for Services. – In order to be eligible for services under this section a special needs child must be enrolled in the Program.

(c) Services Provided. – The services authorized to be provided to children eligible under this section are as follows:

- (1) The same level of services as provided for special needs children under the Medical Assistance Program as authorized in the Current Operations Appropriations Act except that:
 - a. No services for long-term care shall be provided under this section;
 - b. Services for respite care shall be provided only under emergency circumstances; and
 - c. The Department may limit services for special needs children after consultation with the Commission on Children with Special Health Care Needs.
- (2) Only those services eligible under this section that are not covered or otherwise provided under ~~Part 5 of Article 3 of Chapter 135 of the General Statutes~~ the Predecessor Plan.

(d) Limitation. – Funds may be expended for services under this section only if the special needs child is enrolled in the Program, the services provided under this section are not provided under ~~Part 5 of Article 3 of Chapter 135 of the General Statutes~~ the Predecessor Plan and the child meets the definition of a special needs child under this section.

(e) Case Management Services. – The Department shall develop procedures for the provision of case management services by the Department to eligible special needs children. Case management services shall be developed to ensure to the maximum extent possible that services are provided in the most efficient and effective manner considering the special needs of the child. The cost of providing case management services for children with special needs shall be paid from funds available for services under this section.

(f) Recommendations by Commission on Children With Special Health Care Needs. – In implementing this section the Department shall consider the recommendations of the Commission on Children With Special Health Care Needs established under ~~Article 71~~ Article 72 of Chapter 143 of the General Statutes. The Department, in consultation with the Commission on Children With Special Health Care Needs shall develop procedures for providing respite care services under emergency circumstances.

(g) No Entitlement. – Nothing in this section shall be construed as entitling any person to services under this section."

SECTION 10.13.(i) G.S. 108A-70.24 is repealed.

SECTION 10.13.(j) G.S. 108A-27(c) reads as rewritten:

"§ 108A-70.27. Data collection; reporting.

...
 (c) ~~The Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Major Medical Plan ("Plan") shall provide to the Department data required under this section that are collected by the Plan. Data shall be reported by the Plan in sufficient detail to meet federal reporting requirements under Title XXI. The Plan~~The Department shall report periodically to the Joint Legislative Health Care Oversight Committee claims processing data for the Program and any other information the ~~Plan~~Department or the Committee deems appropriate and relevant to assist the Committee in its review of the Program."

SECTION 10.13.(k) Effective July 1, 2009, G.S. 108A-70.21(b)(1), as amended by subsection (g) of this section, reads as rewritten:

"§ 108A-70.21. **Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

...
 (b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the Predecessor Plan.

In addition to the benefits provided under the Predecessor Plan, dental services and supplies as follows:

- (1) ~~Dental:~~ Oral examinations, teeth cleaning, and ~~sealing~~topical fluoride treatments twice during a 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once during a 12-month period, ~~fluoride applications twice during a 12-month period, fluoride varnish, sealants, simple extractions,~~sealants, extractions, other than impacted teeth or wisdom teeth, therapeutic pulpotomies, space maintainers, root canal therapy for permanent anterior teeth and permanent first molars, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth.
- (1a) Orthognathic surgery to correct functionally impairing malocclusions when orthodontics was approved and initiated while the child was covered by Medicaid and the need for orthognathic surgery was documented in the orthodontic treatment plan.

No benefits are to be provided for services and materials under this subsection that do not meet the standards accepted by the American Dental Association."

SECTION 10.13.(l) The Secretary of the Department of Health and Human Services shall develop and implement a plan for assuming administrative responsibility for the North Carolina Health Choice for Children program by transitioning all administrative oversight and claims processing activities from the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees to the Division of Medical Assistance. The transition of all administrative oversight and claims processing from the State Health Plan to the Division of Medical Assistance shall be completed not later than July 1, 2010. The Secretary shall report to the Joint Legislative Health Care Oversight Committee and the Committee on Employee Hospital and Medical Benefits at least 30 days prior to effecting the transition of the responsibilities for the administration and processing of claims for benefits

provided under the North Carolina Health Choice for Children program from the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees to the Department.

SECTION 10.13.(m). Effective July 1, 2008, G.S. 135-37(b), as amended by Section 22.28A.(c) of S.L. 2007-323, reads as rewritten:

"(b) Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees may contract with providers of institutional and professional medical care and services to establish preferred provider networks. The terms pertaining to reimbursement rates or other terms of consideration of any contract between hospitals, hospital authorities, doctors, or other medical providers, or a pharmacy benefit manager and the Plan, or contracts pertaining to the provision of any medical benefit offered under the Plan, including its optional plans or programs, shall not be a public record under Chapter 132 of the General Statutes for a period of 30 months after the date of the expiration of the contract. Provided, however, nothing in this subsection shall be deemed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, the Department of Health and Human Services solely for the purpose of implementing the transition of NC Health Choice from the Plan to the Department of Health and Human Services, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities. The design, adoption, and implementation of the preferred provider contracts, networks, and optional plans or programs as authorized under G.S. 135-40 are not subject to the requirements of Chapter 143 of the General Statutes. The Executive Administrator and Board of Trustees shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating the preferred provider contracts."

SECTION 10.13.(n) Subsections (a) through (c) and subsections (e) through (k) of this section become effective July 1, 2008. Effective July 1, 2010, G.S. 135-42, as amended by subsection (b) of this section, is repealed. The remainder of this section is effective when this act becomes law.

HEALTH CHOICE ENROLLMENT GROWTH CAP

SECTION 10.14.(a) Section 10.47 of S.L. 2007-323 is repealed.

SECTION 10.14.(b) The Department of Health and Human Services may, in the NC Health Choice Program for the 2008-2009 fiscal year, allow up to six percent (6.0%) enrollment growth over the number of children enrolled in the NC Health Choice Program on June 30, 2008.

SECTION 10.14.(c) On January 15, 2009, or upon the convening of the 2009 General Assembly, whichever occurs later, the Department of Health and Human Services shall report to the 2009 General Assembly. The report shall provide the following information:

- (1) The number of children that were enrolled in NC Health Choice in the first week of January 2009, based on the January Pull-Night data; and
- (2) Projected enrollment and program costs for each of the remaining six months of the 2008-2009 fiscal year. The projected enrollment shall be based on NC Health Choice enrollment data and program costs from the immediately preceding five fiscal years.

- (3) The status of current expenditures and availability of State and federal funds for the 2008-2009 fiscal year.

The Department shall submit the report to the Chairs of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.14.(d) If the report submitted pursuant to subsection (c) of this section indicates, or if the Department becomes later aware that growth in NC Health Choice enrollment for the 2008-2009 fiscal year will exceed the maximum six percent (6%) growth allowed under subsection (a) of this section, or if there will be a shortfall of federal funds, then the Department shall notify the Centers for Medicare and Medicaid Services (CMS) that it anticipates a freeze on enrolling new enrollees. The Department will continue to provide monthly reports to the chairs of the House of Representatives Committee on Appropriations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Office of State Budget and Management, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division. If enrollment in NC Health Choice continues to follow the Department's projections that the six percent (6%) cap will be exceeded, or there will be a shortfall of federal funds, then the Department shall formally notify CMS, the Chairs of 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 of a freeze on new enrollees.

SECTION 10.14.(e) The limitation on enrollment growth under this section may not be exceeded unless Congress has reauthorized SCHIP so as to provide sufficient federal funds or has appropriated additional federal funds for the 2008-2009 fiscal year. If Congress has reauthorized SCHIP to provide sufficient federal funds, then the Department may continue to enroll new enrollees up to an increase of eight and seventy-three one hundredths percent (8.73%) from such funds as are available to the Department.

MENTAL HEALTH CHANGES

SECTION 10.15.(a) For the purpose of mitigating cash-flow problems that many non-single-stream local management entities (LMEs) experience at the beginning of each fiscal year, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall adjust the timing and method by which allocations of service dollars are distributed to each non-single-stream LME. To this end, the allocations shall be adjusted such that at the beginning of the fiscal year the Department shall distribute not less than one-twelfth of the LME's continuation allocation and subtract the amount of the adjusted distribution from the LME's total reimbursements for the fiscal year.

SECTION 10.15.(b) Of the funds appropriated for substance abuse services to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2007-2008 and 2008-2009 fiscal years, the sum of at least eight million dollars (\$8,000,000) shall be allocated for regionally purchased locally hosted substance abuse services. These funds shall be used to support LMEs in establishing additional regionally purchased and locally hosted substance abuse programs. Funds appropriated shall be for the purpose of

developing and enhancing the American Society of Addiction Medicine (ASAM) continuum of care at the community level. The Department of Health and Human Services shall work with LMEs in establishing these programs. LMEs shall report to the Department of Health and Human Services on the LMEs' use of the funds. Reporting dates and frequency shall be as determined by the Department.

SECTION 10.15.(c) The Department shall encourage the conversion of the remaining non-single-stream LMEs to single-stream funding as soon as possible. The Department shall develop prompt-pay guidelines as part of single-stream funding requirements. The Department shall also develop standards for the removal of single-stream designation for those LMEs that do not continue to comply with the applicable requirements for single-stream funding, except that the Department's requirements shall allow for LMEs in the first year of single-stream funding to have a six-month grace period to comply with the requirements from the time the LME begins single-stream funding. For its report on performance measures, the Department shall include a matrix by LME and performance measure of those LMEs that are not meeting the performance measure.

SECTION 10.15.(d) The Department of Health and Human Services shall simplify the current State Integrated Payment and Reporting System (IPRS) to encourage more providers to serve State-paid clients. This effort shall include working with LMEs to develop billing codes for relevant activities currently lacking such codes.

SECTION 10.15.(e) The Department of Health and Human Services shall consult with LMEs and service providers to determine why there have been under- and over-expenditure of State service dollars by LMEs and shall take the action necessary to address the problem. In making its determination, the Department shall work with LMEs and providers. Not later than January 1, 2009, 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, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on actions taken to address the problem of LME under- and over-expenditure of service dollars. The report shall include legislative action needed to address the problem.

SECTION 10.15.(f) The Department shall perform a services gap analysis of the Mental Health, Developmental Disabilities, and Substance Abuse Services System. The Department of Health and Human Services shall involve LMEs in performing the gap analysis. The Department shall not contract with an independent entity to perform the gap analysis. The Department shall report the results of its analysis to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than January 1, 2010.

SECTION 10.15.(g) Notwithstanding any other provision of law to the contrary, the Secretary of Health and Human Services shall not transfer patients from John Umstead Hospital or Dorothea Dix Hospital to Central Regional Hospital unless and until the Secretary provides a written report to the Governor, based on the Secretary's findings, that on the day of its opening and thereafter, Central Regional Hospital will be operated in a manner that provides a safe and secure environment for its patients and staff. On or after the date the Secretary has provided the written report to the Governor, the Secretary may transfer patients from John Umstead Hospital to

Central Regional Hospital. On and after the date of the transfer of John Umstead patients, the Secretary may commence the transfer of patients from Dorothea Dix Hospital but only if the following conditions are met:

- (1) At the time of commencing transfer of Dorothea Dix patients the Secretary has determined that an inspection of Central Regional Hospital indicates no findings of noncompliance with conditions of participation from the Centers for Medicare and Medicaid Services (CMS), and
- (2) The Secretary finds that Central Regional Hospital is in compliance with Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) standards for accreditation.

SECTION 10.15.(h) In order to temporarily address high admissions to adult acute unit beds in the State psychiatric hospitals, the Secretary of the Department of Health and Human Services may, notwithstanding G.S. 122C-181 and G.S. 122C-112.1(a)(30), open and operate on a temporary basis up to 60 beds at the Central Regional Hospital Wake Unit on the Dorothea Dix Campus and may maintain the Wake Unit on the Dix Campus until beds become available in the system. Section 10.49(t) of S.L. 2007-323 does not apply to this subsection.

SECTION 10.15.(i) Onetime funds appropriated for the Dorothea Dix Hospital overflow unit shall be used to support the temporary opening and operation of the Central Regional Hospital Wake Unit on the Dorothea Dix Campus. It is the intent of the General Assembly to fund the Wake Unit for three years. Notwithstanding any other provision of law to the contrary, the Office of State Budget and Management shall establish the positions for the Central Regional Hospital Wake Unit on the Dorothea Dix campus as time-limited positions for up to three years.

SECTION 10.15.(j) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for mobile crisis teams, the sum of five million seven hundred fifty-five thousand dollars (\$5,755,000) shall be distributed to LMEs to support 30 mobile crisis teams. The new mobile crisis units shall be distributed across the State according to need as determined by the Department.

SECTION 10.15.(k) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of eight million one hundred twenty-one thousand six hundred forty-four dollars (\$8,121,644) shall be allocated for the purchase of local inpatient psychiatric beds or bed days. These beds or bed days shall be distributed across the State according to need as determined by the Department. The Department shall enter into contracts with the LMEs and community hospitals for the management of these beds or bed days. Local inpatient psychiatric beds or bed days shall be managed and controlled by the LME, including the determination of which local or State hospital the individual should be admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital within 10 working days of receipt of payment from the Division. If the Department determines (i) that an LME is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being

utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment provisions of this subsection, the Department may contract with another LME to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the hospital directly. The Department shall develop reporting requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed days not currently funded by or through LMEs and shall not be used to supplant other funds available or otherwise appropriated for the purchase of psychiatric inpatient services under contract with community hospitals, including beds or bed days being purchased through Hospital Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2009, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on a uniform system for beds or bed days purchased (i) with local funds, (ii) from existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using funds appropriated under this subsection.

SECTION 10.15.(l) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of one million eight hundred seventy-six thousand two hundred forty-three dollars (\$1,876,243) shall be allocated for the START crisis model for developmental disability services. These funds shall be distributed to LMEs to support six crisis teams. The new crisis teams shall be distributed across the State according to need as determined by the Department.

SECTION 10.15.(m) Funds appropriated in this act in the amount of one million eighty thousand nine hundred ninety-two dollars (\$1,080,992) for start-up and ongoing support of respite beds for individuals with developmental disabilities shall be distributed across the State by the Department according to need.

SECTION 10.15.(n) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of six million one hundred thirteen thousand nine hundred forty-seven dollars (\$6,113,947) shall be allocated for walk-in crisis and immediate psychiatric aftercare and shall be distributed to the LMEs to support 30 psychiatrists and related support staff. Of these funds, the sum of one million six hundred fifty thousand dollars (\$1,650,000) shall be used for telepsychiatry equipment to be owned by the LMEs and shall be distributed across the State according to need as determined by the Department.

SECTION 10.15.(o) The independent and supportive living apartments for persons with disabilities constructed from funds appropriated in this act for that purpose shall be affordable to persons with incomes at the Supplemental Security Income (SSI) level.

SECTION 10.15.(p) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall implement the tiered CAP-MR/DD waiver program in accordance with Section 10.49(dd) of S.L. 2007-323. The Department shall implement the program with four tiers: (i) up to seventeen thousand five hundred dollars (\$17,500); (ii) between seventeen thousand five hundred one dollars (\$17,501) and forty-five thousand dollars (\$45,000); (iii) between forty-five thousand one dollars (\$45,001) and seventy-five

thousand dollars (\$75,000); and (iv) between seventy-five thousand one dollars (\$75,001) and one hundred thousand dollars (\$100,000). The Department shall review on a case-by-case basis tier funding in excess of one hundred thousand dollars (\$100,000) and may authorize the excess amount based on standards adopted by the Department.

SECTION 10.15.(q) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, for the 2008-2009 fiscal year for additional CAP-MR/DD slots, a portion of these funds shall be allocated for slots managed under the North Carolina CAP-MR/DD 1915(c) Medicaid waiver and shall be used for tier one slots as described under subsection (n) of this section. In addition a portion of these funds shall be allocated to fund CAP-MR/DD slots statewide to fund a combination of slots managed under the North Carolina CAP-MR/DD 1915(c) Medicaid waiver and slots managed under the North Carolina Piedmont Behavioral Health Care 1915(b) and (c) Medicaid waiver.

SECTION 10.15.(r) The Department of Health and Human Services shall implement a plan to catch up Piedmont Behavioral Health (PBH) CAP-MR/DD slots to the State average such that one percent (1%) of the funds for turnover CAP-MR/DD slots shall be transferred each year to PBH until PBH CAP-MR/DD slots reach the State per capita average of slots.

SECTION 10.15.(s) The North Carolina Institute of Medicine (IOM) shall study and report on the transition for persons with developmental disabilities from one life setting to another, including barriers to transition and best practices in successful transitions. The IOM should conduct this study using funds appropriated for IOM studies in the 2007 Session. The study should encompass at least the following topics: (i) the transition for adolescents leaving high school, including adolescents in foster care and those in other settings; (ii) the transition for persons with developmental disabilities who live with aging parents; and (iii) the transition from the developmental centers to other settings. The IOM shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2009.

SECTION 10.15.(t) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall assist local management entities (LMEs) in using up to five percent (5%) of the LME's developmental disability funds to help successfully transition individuals from developmental disability centers into the community. The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall report on the progress of LMEs in successfully providing discharge planning to individuals with developmental disabilities. The Department of Health and Human Services shall make its report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than March 1, 2009.

SECTION 10.15.(u) The Department of Health and Human Services shall review State-County Special Assistance rates to develop an appropriate rate for special care units for persons with a mental health disability, including individuals with Traumatic Brain Injury (TBI), and shall review current rules pertaining to special care

units for persons with a mental health disability to determine if additional standards are necessary. The Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than January 1, 2009.

SECTION 10.15.(v) The Department of Health and Human Services shall ensure that veterans and their families comprise one of the target populations for mental health, developmental disabilities, and substance abuse services in order that this population is eligible for existing funding.

SECTION 10.15.(w) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop a service authorization process that requires a comprehensive clinical assessment to be completed by a licensed clinician prior to service delivery, except where this requirement would impede access to crisis or other emergency services. The Department shall require that the licensed professional that signs a medical order for behavioral health services must indicate on the order whether the licensed professional (i) has had direct contact with the consumer, and (ii) has reviewed the consumer's assessment. The Department shall report the failure of a licensed professional to comply with this requirement to the licensed professional's occupational licensing board. The Department shall report on the development of the service authorization process to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than October 1, 2008. The Department shall not implement the service authorization process until 15 days after it has notified 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.

SECTION 10.15.(x) The Department of Health and Human Services shall develop a plan to return the service authorization, utilization review, and utilization management functions to LMEs for all clients. Not later than February 1, 2009, the Department shall report on the development of the plan to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division. Not later than July 1, 2009, utilization review, utilization management, and service authorization for publicly funded mental health, developmental disabilities, and substance abuse services shall be returned to LMEs representing in total at least thirty percent (30%) of the State's population. An LME must be accredited for national accreditation under behavioral health care standards by a national accrediting entity approved by the Secretary and must demonstrate readiness to meet all requirements of the existing vendor contract with the Department for such services in order to provide service authorization, utilization review, and utilization management to Medicaid recipients in the LME catchment area. The Department shall comply with the requirements of S.L. 2007-323, Section 10.49(ee). The Department shall not contract with an outside vendor for service authorization, utilization review, or utilization management functions, or otherwise obligate the State for these functions beyond September 30, 2009. The Department shall require LMEs to include in their service authorization, utilization management, and

utilization review a review of assessments, as well as person-centered plans and random or triggered audits of services and assessments. The Department may also develop and implement a plan to return plan authorization for CAP-MR/DD slots to LMEs.

SECTION 10.15.(y) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall study Medicaid waivers, including 1915(b) and (c) waivers, for all LMEs. In cases where Medicaid waivers are not appropriate for an LME, the Department shall identify and recommend strategies to increase LME flexibility to provide case management, assessment, limit provider networks, or other innovative approach for managing care. Not later than March 1, 2009, the Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

SECTION 10.15.(z) The Piedmont Behavioral Health (PBH) local management entity (LME) shall be deemed by the Department as a demonstration model in the PBH LME catchment area. The Department shall also adopt as part of the demonstration model the PBH 1915(b) and 1915(c) Medicaid waivers, and single-stream funding for State services funds, which include funds previously transferred from State institution budgets.

SECTION 10.15.(aa) The Secretary of the Department of Health and Human Services shall not take any action prior to January 1, 2010, that would result in the merger or consolidation of LMEs operating on January 1, 2008, or that would establish consortia or regional arrangements for the same purpose, except that:

- (1) LMEs that do not meet the catchment area requirements of G.S. 122C-115 as of January 1, 2008, may initiate, continue, or implement the LMEs' merger or consolidation plans to overcome noncompliance with G.S. 122C-115, and
- (2) The Guilford Center for Behavioral Health and Disability Services, the Smoky Mountain Center, and the Mecklenburg County Area Mental Health, Developmental Disability and Substance Abuse Authority may continue with or implement the proposed administrative service organization under development as of March 1, 2008, for merger or consolidation of any combination of these entities.

SECTION 10.15.(bb) If the Secretary of the Department of Health and Human Services desires to merge LMEs, the Secretary shall develop a detailed plan for General Assembly review on its recommendation to merge, consolidate, or establish regional arrangements or consortia of LMEs. In developing the plan, the Secretary shall consult with LMEs to obtain input on the feasibility and effectiveness of potential mergers and the time frame needed to fully implement the mergers, regional arrangements, or consortia at the local level. The Secretary shall provide the plan to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than March 1, 2009.

SECTION 10.15.(cc) G.S. 122C-115.4(d) reads as rewritten:

"(d) Except as provided in G.S. 122C-124.1 and G.S. 122C-125, the Secretary may neither remove from an LME nor designate another entity as eligible to implement any function enumerated under subsection (b) of this section unless all of the following applies:

- (1) The LME fails during the previous consecutive three months to achieve a satisfactory outcome on any of the critical performance measures developed by the Secretary under G.S. 122C-112.1(33).
- (2) The Secretary provides focused technical assistance to the LME in the implementation of the function. The assistance shall continue for at least ~~six~~-three months or until the LME achieves a satisfactory outcome on the performance measure, whichever occurs first.
- (3) If, after ~~six~~-three months of receiving technical assistance from the Secretary, the LME still fails to achieve or maintain a satisfactory outcome on the critical performance measure, the Secretary shall enter into a contract with another LME or agency to implement the function on behalf of the LME from which the function has been removed."

SECTION 10.15.(dd) G.S. 122C-3 is amended by adding the following new subdivision to read:

"(23a) 'Minimally adequate services' means a level of service required for compliance with all applicable State and federal laws, rules, regulations, and policies and with generally accepted professional standards and principles."

SECTION 10.15.(ee) The lead paragraph of G.S. 122C-124.1(b) reads as rewritten:

"(b) Suspension of Funding; Assumption of Service Delivery or Management Functions. – If the Secretary determines that a county, through an area authority or county program, is not providing minimally adequate ~~services, in accordance with rules adopted by the Secretary or the Commission,~~ services to persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and to the board of county commissioners of the area authority or county program, and after providing the area authority or county program and the boards of county commissioners of the area authority or county program an opportunity to be heard, may:"

IMPROVE AND STRENGTHEN FISCAL OVERSIGHT OF COMMUNITY SUPPORT SERVICES

SECTION 10.15A.(a) Not later than June 30, 2008, the Department of Health and Human Services, Division of Medical Assistance, shall submit to the Centers for Medicare and Medicaid Services, revised service definitions for two Medicaid billable services: (i) community support-adults, and (ii) community support-children/adolescents. The revised definitions shall focus on rehabilitative services and be developed to ensure that community support services are provided as efficiently and effectively as possible to minimize overexpenditures in community support services in the 2008-2009 fiscal year and thereafter.

SECTION 10.15A.(b) In order to ensure accountability for services provided and funds expended for community services, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop a tiered rate structure to replace the blended rate currently

used for community support services. Under the new tiered structure, services that are necessary but do not require the skill, education, or knowledge of a qualified professional should not be paid at the same rate as services provided by qualified skilled professionals. The Department shall not implement the tiered rate structure until 15 days after it has notified 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. The Department shall report on the development of the structure to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than October 1, 2008.

SECTION 10.15A.(c) Article 3A of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-81. National accreditation benchmarks.

- (a) As used in this section, the term:
- (1) 'National accreditation' applies to accreditation by an entity approved by the Secretary that accredits mental health, developmental disabilities, and substance abuse services.
 - (2) 'Provider' applies to only those providers of services, including facilities, requiring national accreditation, which services are designated by the Secretary pursuant to subsection (b) of this section.
- (b) The Secretary, through the Medicaid State Plan, Medicaid waiver, or rules adopted by the Secretary, shall designate the mental health, developmental disabilities, and substance abuse services that require national accreditation.
- (c) Providers enrolled with the Medicaid program prior to July 1, 2008, and providing services that require national accreditation approved by the Secretary pursuant to subsection (b) of this section, shall successfully complete national accreditation requirements within three years of enrollment with the Medicaid program. Providers shall meet the following benchmarks to ensure continuity of care for consumers in the event the provider does not make sufficient progress in achieving national accreditation in a timely manner:
- (1) Nine months prior to the accreditation deadline – Formal selection of an accrediting agency as documented by a letter from the agency to the provider acknowledging the provider's selection of that accrediting agency. A provider failing to meet this benchmark shall be prohibited from admitting new clients to service. If a provider fails to meet this benchmark, then the LMEs shall work with the provider to transfer all the provider's entire case load to another provider within four months of the date of the provider's failure to meet the benchmark. The transfer of the case load shall be in increments such that not fewer than twenty-five percent (25%) of the provider's total caseload shall be transferred per month. The Department shall terminate the provider's enrollment in the Medicaid program within four months of the provider's failure to meet the benchmark.
 - (2) Six months prior to the accreditation deadline – An on-site accreditation review scheduled by the accrediting agency as documented by a letter from the agency to the facility. A provider failing to meet this benchmark will be prohibited from admitting new clients to service. If a provider fails to meet this benchmark, then the

LMEs shall work with the provider to transfer the provider's entire case load to another provider within three months of the date of the provider's failure to meet the benchmark. The transfer of the case load shall be in increments such that not fewer than thirty-three percent (33%) of the provider's total caseload shall be transferred per month. The Department shall terminate the provider's enrollment in the Medicaid program within three months of the provider's failure to meet the benchmark.

- (3) Three months prior to the accreditation deadline – Completion of an on-site accreditation review, receipt of initial feedback from accrediting agency, and submission of a Plan of Correction for any deficiencies noted by the accrediting agency. A provider failing to meet this benchmark shall be prohibited from admitting new clients to service. If a provider fails to meet this benchmark, then the LMEs shall work with the provider to transfer the provider's entire case load to another provider within two months of the date of the provider's failure to meet the benchmark. The transfer of the case load shall be in increments such that not fewer than fifty percent (50%) of the provider's total caseload shall be transferred per month. The Department shall terminate the provider's enrollment in the Medicaid program within two months of the provider's failure to meet the benchmark.
- (4) Accreditation deadline – Approval as fully accredited by the national accrediting agency. A provider failing to meet this requirement shall be prohibited from admitting new clients to service. The LMEs will work with a provider failing to meet this deadline to transition clients currently receiving service to other providers within 60 days. The Department shall terminate the provider's enrollment in the Medicaid program within 60 days of the provider's failure to meet the benchmark.
- (5) A provider that has its enrollment terminated in the Medicaid program as a result of failure to meet benchmarks for national accreditation or failure to continue to be nationally accredited may not apply for re-enrollment in the Medicaid program for at least one year following its enrollment termination.

(d) Providers enrolled in the Medicaid program or contracting for State-funded services on or after July 1, 2008, and providing services which require national accreditation shall successfully complete all accreditation requirements and be awarded national accreditation within one year of enrollment in the Medicaid program or within two years following the provider's first contract to deliver a State-funded service requiring national accreditation. Providers providing services that require national accreditation shall be required to discontinue service delivery and shall have their Medicaid enrollment and any service contracts terminated if they do not meet the following benchmarks for demonstrating sufficient progress in achieving national accreditation following the date of enrollment in the Medicaid program or initial contract for State-funded services:

- (1) Three months – On-site accreditation review scheduled by accrediting agency as documented by a letter from the agency to the provider and

- completion of self-study and self-evaluation protocols distributed by the selected accrediting agency.
- (2) Six months – On-site accreditation review scheduled by accrediting agency as documented by a letter from the agency to the provider.
 - (3) Nine months – Completion of on-site accreditation review, receipt of initial feedback from accrediting agency, plan to address any deficiencies identified developed.
 - (4) If a provider's Medicaid enrollment or service delivery contracts are terminated as a result of failure to meet accreditation benchmarks or failure to continue to be nationally accredited, the provider will work with the LME to transition consumers served by the provider to other service providers in an orderly fashion within 60 days of notification by the LME of such failure.
 - (5) A provider that has its Medicaid enrollment or service delivery contracts terminated as a result of failure to meet accreditation benchmarks or failure to continue to be nationally accredited may not reapply for enrollment in the Medicaid program or enter into any new service delivery contracts for at least one year following enrollment or contract termination."

SECTION 10.15A.(e1) For the purpose of expediting the resolution of community support provider appeals and thereby saving State and federal funds that are paid for services that are found to be unnecessary or otherwise ineligible for payment, the Department shall implement on a temporary basis a community support provider appeals process. The process shall be a substitute for informal provider appeals at the Department level and formal provider appeals by the Office of Administrative Hearings. The community support provider appeals process shall apply to a community support services provider:

- (1) Who is aggrieved by a decision of the Department to reduce, deny, recoup, or recover reimbursement for community support services, or to deny, suspend, or revoke a provider agreement to provide community support services.
- (2) Whose endorsement has been withdrawn or whose application for endorsement has been denied by a local management entity.

SECTION 10.15A.(e2) The community support provider appeals process shall be developed and implemented as follows:

- (1) A hearing under this section shall be commenced by filing a petition with the chief hearings clerk of the Department within 30 days of the mailing of the notice by the Department of the action giving rise to the contested case. The petition shall identify the petitioner, be signed by the party or representative of the party, and shall describe the agency action giving rise to the contested case. As used in this section, "file or filing" means to place the paper or item to be filed into the care and custody of the chief hearings clerk of the Department and acceptance thereof by the chief hearings clerk, except that the hearing officer may permit the papers to be filed with the hearing officer, in which event the hearing officer shall note thereon the filing date. The Department shall supply forms for use in these contested cases.
- (2) If there is a timely request for an appeal, the Department shall promptly designate a hearing officer who shall hold an evidentiary

- hearing. The hearing officer shall conduct the hearing according to applicable federal law and regulations and shall ensure that:
- a. Notice of the hearing is given not less than 15 days before the hearing. The notice shall state the date, hour, and place of the hearing and shall be deemed to have been given on the date that a copy of the notice is mailed, via certified mail, to the address provided by the petitioner in the petition for hearing.
 - b. The hearing is held in Wake County, except that the hearing officer may, after consideration of the numbers, locations, and convenience of witnesses and in order to promote the ends of justice, hold the hearing by telephone or other electronic means or hold the hearing in a county in which the petitioner resides.
 - c. Discovery is no more extensive or formal than that required by federal law and regulations applicable to the hearings. Prior to and during the hearing, a provider representative shall have adequate opportunity to examine the provider's own case file. No later than five days before the date of the hearing, each party to a contested case shall provide to each other party a copy of any documentary evidence that the party intends to introduce at the hearing and shall identify each witness that the party intends to call.
- (3) The hearing officer shall have the power to administer oaths and affirmations, subpoena the attendance of witnesses, rule on prehearing motions, and regulate the conduct of the hearing. The following shall apply to hearings held pursuant to this section:
- a. At the hearing, the parties may present such sworn evidence, law, and regulations as are relevant to the issues in the case.
 - b. The petitioner and the respondent agency each have a right to be represented by a person of his choice, including an attorney obtained at the party's own expense.
 - c. The petitioner and the respondent agency shall each have the right to cross-examine witnesses as well as make a closing argument summarizing his view of the case and the law.
 - d. The appeal hearing shall be recorded. If a petition for judicial review is filed pursuant to subsection (f) of this section, a transcript will be prepared and made part of the official report and shall be prepared at no cost to the appellant. In the absence of the filing of a petition for a judicial review, no transcript will be prepared unless requested by a party, in which case each party shall bear the cost of the transcript or part thereof or copy of the transcript or part thereof requested by the party. The recording of the appeal hearing may be erased or otherwise destroyed 180 days after the final decision is mailed as provided in G.S. 108A-79(i)(5).
- (4) The hearing officer shall decide the case based upon a preponderance of the evidence, giving deference to the demonstrated knowledge and expertise of the agency as provided in G.S. 150B-34(a). The hearing officer shall prepare a proposal for the decision, citing relevant law, regulations, and evidence, which shall be served upon the petitioner or

- the petitioner's representative by certified mail, with a copy furnished to the respondent agency.
- (5) The petitioner and the respondent agency shall have 15 days from the date of the mailing of the proposal for decision to present written arguments in opposition to or in support of the proposal for decision to the designated official of the Department who will make the final decision. If neither written arguments are presented, nor extension of time granted by the final agency decision maker for good cause, within 15 days of the date of the mailing of the proposal for decision, the proposal for decision becomes final. If written arguments are presented, such arguments shall be considered and the final decision shall be rendered. The final decision shall be rendered not more than 90 days from the date of the filing of the petition. This time limit may be extended by agreement of the parties or by final agency decision maker, for good cause shown, for an additional period of up to 30 days. The final decision shall be served upon the petitioner or the petitioner's representative by certified mail, with a copy furnished to the respondent agency. In the absence of a petition for judicial review filed pursuant to subsection (f) of this section, the final decision shall be binding upon the petitioner and the Department.
- (6) A petitioner who is dissatisfied with the final decision of the Department may file, within 30 days of the service of the decision, a petition for judicial review in the Superior Court of Wake County or of the county from which the case arose. The judicial review shall be conducted according to Article 4 of Chapter 150B of the General Statutes.
- (7) In the event of a conflict between federal law or regulations and State law or regulations, federal law or regulations shall control. This section applies to all petitions that are filed by a Medicaid community support services provider on or after July 1, 2008, and for all Medicaid community support services provider petitions that have been filed at the Office of Administrative Hearings previous to July 1, 2008, but for which a hearing on the merits has not been commenced prior to that date. The requirement that the agency decision must be rendered not more than 90 days from the date of the filing of the petition for hearing shall not apply to (i) community support services provider petitions that were filed at the Office of Administrative Hearings or (ii) requests for a hearing under the Department's informal settlement process prior to the effective date of this act. The Office of Administrative Hearings shall transfer all cases affected by this section to the Department of Health and Human Services within 30 days of the effective date of this section. This act preempts the existing informal appeal process and reconsideration review process at the Department of Health and Human Services and the existing appeal process at the Office of Administrative Hearings with regard to all appeals filed by Medicaid community support services providers under the Medical Assistance program.

SECTION 10.15A.(e3) Notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may, pursuant to its statutory

authority or federal Medicaid requirements, suspend the endorsement or Medicaid participation of a provider of community support services pending a final agency decision based on a fair hearing of the provider's appeal filed with the Department under its community support provider appeal process. A provider of community support services whose endorsement, Medicaid participation, or services have been suspended is not entitled to payment during the period the appeal is pending, and the Department shall make no such payment to the provider during that period. If the final agency decision is in favor of the provider, the Department shall remove the suspension, commence payment for provider services, and reimburse the provider for payments withheld during the period of appeal. Contracts between the Department or a local management entity and the provider shall contain a provision indicating the circumstances under which a provider may appeal an agency decision and giving notice of the suspension of payments to the provider while the appeal is pending. This subsection applies to community support provider appeals pending in the Department of Health and Human Services or the Office of Administrative Hearings, as applicable, on and after July 1, 2008.

SECTION 10.15A.(e4) The Department's community support provider appeals process established under this section shall expire July 1, 2010. 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, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on March 1, 2009, October 1, 2009, and March 1, 2010, on the effectiveness and efficiency of the community support provider appeals process.

SECTION 10.15A.(f) G.S. 150B-1(e) is amended by adding the following new subdivision to read:

"(e) Exemptions From Contested Case Provisions. – The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

...

(16) The Department of Health and Human Services with respect to contested cases commenced by (i) Medicaid providers appealing a denial or reduction in reimbursement for community support services, and (ii) community support services providers appealing decisions by the LME to deny or withdraw the provider's endorsement."

SECTION 10.15A.(g) The Department of Health and Human Services shall adopt guidelines for LME periodic review and rules for endorsement and reendorsement of providers to ensure that only qualified providers are endorsed and that LMEs hold those providers accountable for the Medicaid and State-funded services they provide.

SECTION 10.15A.(h) G.S. 122C-151.4 reads as rewritten:

"§ 122C-151.4. **Appeal to State MH/DD/SA Appeals Panel.**

(a) Definitions. – The following definitions apply in this section:

(1) "Appeals Panel" means the State MH/DD/SA Appeals Panel established under this section.

(1a) "Client" means an individual who is admitted to or receiving public services from an area facility. "Client" includes the client's personal representative or designee.

- (1b) "Contract" means a contract with an area authority or county program to provide services, other than personal services, to clients and other recipients of services.
- (2) "Contractor" means a person who has a contract or who had a contract during the current fiscal ~~year~~year, or whose application for endorsement has been denied by an area authority or county program.
- (3) "Former contractor" means a person who had a contract during the previous fiscal year.

(b) Appeals Panel. – The State MH/DD/SA Appeals Panel is established. The Panel shall consist of three members appointed by the Secretary. The Secretary shall determine the qualifications of the Panel members. Panel members serve at the pleasure of the Secretary.

(c) Who Can Appeal. – The following persons may appeal to the State MH/DD/SA Appeals Panel after having exhausted the appeals process at the appropriate area authority or county program:

- (1) A contractor or a former contractor who claims that an area authority or county program is not acting or has not acted within applicable State law or rules in denying the contractor's application for endorsement or in imposing a particular requirement on the contractor on fulfillment of the contract;
- (2) A contractor or a former contractor who claims that a requirement of the contract substantially compromises the ability of the contractor to fulfill the contract;
- (3) A contractor or former contractor who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided by the contractor or former contractor;
- (4) A client or a person who was a client in the previous fiscal year, who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided to the client directly by the area authority or county program; and
- (5) A person who claims that an area authority or county program did not comply with a State law or a rule adopted by the Secretary or the Commission in developing the plans and budgets of the area authority or county program and that the failure to comply has adversely affected the ability of the person to participate in the development of the plans and budgets.

(d) Hearing. – All members of the State MH/DD/SA Appeals Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within the time required by the Secretary and shall be heard by the Panel within the time required by the Secretary. A hearing shall be conducted at the place determined in accordance with the rules adopted by the Secretary. A hearing before the Panel shall be informal; no sworn testimony shall be taken and the rules of evidence do not apply. The person who appeals to the Panel has the burden of proof. The Panel shall not stay a decision of an area authority during an appeal to the Panel.

(e) Decision. – The State MH/DD/SA Appeals Panel shall make a written decision on each appeal to the Panel within the time set by the Secretary. A decision may direct a contractor, an area authority, or a county program to take an action or to

refrain from taking an action, but it shall not require a party to the appeal to pay any amount except payment due under the contract. In making a decision, the Panel shall determine the course of action that best protects or benefits the clients of the area authority or county program. If a party to an appeal fails to comply with a decision of the Panel and the Secretary determines that the failure deprives clients of the area authority or county program of a type of needed service, the Secretary may use funds previously allocated to the area authority or county program to provide the service.

(f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-2(1a), an area authority or county program is considered an agency for purposes of the limited appeal authorized by this section. If the need to first appeal to the State MH/DD/SA Appeals Panel is waived by the Secretary, a contractor may appeal directly to the Office of Administrative Hearings after having exhausted the appeals process at the appropriate area authority or county program. The Secretary shall make a final decision in the contested case.

(g) This section does not apply to providers of community support services who appeal directly to the Department of Health and Human Services under the Department's community support provider appeal process."

SECTION 10.15A.(h1) The Department of Health and Human Services and the Office of Administrative Hearings shall work together to streamline the process for hearing Medicaid recipient appeals. The process shall be designed to significantly reduce the backlog of Medicaid recipient appeals pending as of July 1, 2008, and shall ensure that Medicaid recipients continue to receive benefits at current levels pending the outcome of the appeal. The Department shall further ensure that Medicaid applicants who have been determined to be eligible for Medicaid shall be eligible to receive community support services if the services are determined to be medically necessary.

SECTION 10.15A.(i) Sections 10.49(ee)(5) and (6) of S.L. 2007-323 read as rewritten:

- "(5) All community support services are subject to prior ~~approval after the initial assessment and development of a person-centered plan has been completed;~~approval.
- (6) ~~Providers are limited to four hours of community support for adults and eight hours of community support for children to develop the person-centered plan. Those hours shall be provided only by a qualified professional. Providers that determine that additional hours are needed must seek and obtain prior approval. If additional hours are authorized, the LME may participate in the development of the person-centered plan as part of its care coordination and quality management function as defined in G.S. 122C-115.4. After the tiered rates required under Subsection (b) of this section have been implemented, not less than fifty percent (50%) of community support services must be delivered by qualified professionals."~~

SECTION 10.15A.(j) The Department of Health and Human Services, Division of Medical Assistance, shall adopt a policy reducing the maximum allowable hours for community support services to eight hours per week. This subsection does not apply to community support services offered under a Medicaid managed care, capitated at-risk waiver.

SECTION 10.15A.(k) The lead paragraph of Section 10.49(ee) of S.L. 2007-323 reads as rewritten:

"SECTION 10.49.(ee) ~~For~~ This subsection does not apply to community support services offered under a Medicaid managed care, capitated, at-risk waiver. For all other community support services, for the purpose of avoiding overutilization of community support services and overexpenditure of funds for these services, the Department of Health and Human Services shall immediately conduct an in-depth evaluation of the use and cost of community support services to identify existing and potential areas of overutilization and overexpenditure. The Department shall also adopt or revise as necessary management policies and practices that will ensure that at a minimum:"

NON-MEDICAID REIMBURSEMENT CHANGES

SECTION 10.16. Section 10.5 of S.L. 2007-323 reads as rewritten:

"SECTION 10.5. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

DSB Medical Eye Care	125% FPL
DSB Independent Living <55	125% FPL
DSB Independent Living 55>	200% FPL
DSB Vocational Rehabilitation	125% FPL
DVR Independent Living	125% FPL
DVR Vocational Rehabilitation	125% FPL

~~The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.~~

~~State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:~~

<u>Income</u>	<u>State Participation</u>	<u>Client Participation</u>
(% of poverty)		

0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department."

ADULT CARE HOME TRAINING/TECHNICAL ASSISTANCE

SECTION 10.16A. Section 10.54(b) of S.L. 2007-323 reads as rewritten:

"**SECTION 10.54.(b)** Funds appropriated in this act to the Department of Health and Human Services, Division of Health Service Regulation, for the 2007-2008 fiscal year and the 2008-2009 fiscal year for implementation of rated certificates for adult care homes are contingent upon enactment of Senate Bill 56, 2007 Regular Session, by the 2007 General Assembly. Thirty-five thousand dollars (\$35,000) of these funds shall be allocated to the Division of Aging and Adult Services for the Adult Care Home Quality Improvement Consultation Program. The remaining funds are appropriated for training and technical assistance to implement the rated certificate program and shall be used to fund the development and implementation of a training and educational program by the North Carolina adult care home provider associations that will be integrated with the assessment, care planning, training, and quality improvement initiative being coordinated and financially supported by participating adult care home providers and associations as they are developed. Providers shall not be charged a fee for receiving the training."

DHHS BLOCK GRANTS

SECTION 10.17.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2009, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES
(TANF) BLOCK GRANT

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance (Cash Assistance)	\$90,857,234
02.	Work First County Block Grants	94,453,315
03.	Work First Functional Assessment	2,721,787
04.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
05.	Work First – Boys and Girls Clubs	2,000,000

06.	Work First – After-School Services for At-Risk Children	2,049,642
07.	Work First – After-School Programs for At-Risk Youth in Middle Schools	500,000
08.	Work First – Connect, Inc.	550,000
09.	Work First – Citizens Schools Program	600,000
10.	Adoption Services – Special Children's Adoption Fund	3,000,000
11.	Family Violence Prevention	2,200,000
Division of Child Development		
12.	Subsidized Child Care Program	61,087,077
Division of Public Health		
13.	Teen Pregnancy Prevention Initiatives	450,000
DHHS Administration		
14.	Division of Social Services	995,142
15.	Office of the Secretary	66,101
16.	Office of the Secretary/DIRM – TANF Automation Projects	595,541
17.	Office of the Secretary/DIRM – NC FAST Implementation	1,200,000
Transfers to Other Block Grants		
Division of Child Development		
18.	Transfer to the Child Care and Development Fund	84,330,900
Division of Social Services		
19.	Transfer to Social Services Block Grant for Department of Juvenile Justice and Delinquency Prevention – Support Our Students	2,649,642

20.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	2,738,827
21.	Transfer to Social Services Block Grant for Maternity Homes	838,000
22.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000
23.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,620,619
24.	Transfer to Social Services Block Grant for Foster Care Services	2,372,587
25.	Transfer to Social Services Block Grant for Medically Fragile Children	190,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		\$378,018,805

SOCIAL SERVICES BLOCK GRANT

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

01.	County Departments of Social Services (Transfer from TANF – \$4,620,619)	\$ 28,868,189
02.	State In-Home Services Fund	2,101,113
03.	State Adult Day Care Fund	2,155,301
04.	Child Protective Services/CPS Investigative Services – Child Medical Evaluation Program	238,321
05.	Foster Care Services (Transfer from TANF)	2,372,587
06.	Child Protective Services – Child Welfare Training for Counties (Transfer from TANF)	2,738,827
07.	Maternity Homes (Transfer from TANF)	838,000
08.	Special Children Adoption Incentive Fund	500,000

Division of Aging and Adult Services		
09.	Home and Community Care Block Grant (HCCBG)	1,834,077
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
10.	Mental Health Services Program	422,003
11.	Developmental Disabilities Services Program	5,000,000
12.	Mental Health Services – Adult and Child/Developmental Disabilities Program/ Substance Abuse Services – Adult	3,234,601
Division of Child Development		
13.	Subsidized Child Care Program	3,150,000
Division of Vocational Rehabilitation		
14.	Vocational Rehabilitation Services – Easter Seal Society/UCP	188,263
Division of Public Health		
15.	Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
16.	Services to Medically Fragile Children	290,000
DHHS Program Expenditures		
Division of Aging and Adult Services		
17.	UNC-CARES Training Contract	247,920
Division of Services for the Blind		
18.	Independent Living Program	3,633,077
Division of Health Service Regulation		
19.	Adult Care Licensure Program	411,897
20.	Mental Health Licensure and Certification Program	205,668

DHHS Administration

21.	Division of Aging and Adult Services	675,593
22.	Division of Social Services	869,058
23.	Office of the Secretary/Controller's Office	135,093
24.	Office of the Secretary/DIRM	82,009
25.	Division of Child Development	15,000
26.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	28,860
27.	Division of Health Service Regulation	216,418
28.	Office of the Secretary – NC Inter-Agency Council For Coordinating Homeless Programs	250,000
29.	Office of the Secretary – Housing Coalition	100,000
30.	Office of the Secretary	46,819

Transfers to Other State Agencies

Department of Administration

31.	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198
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Department of Juvenile Justice and Delinquency Prevention

32.	Support Our Students (Transfer from TANF)	2,649,642
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Transfers to Other Block Grants

Division of Public Health

33.	Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning	145,819
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TOTAL SOCIAL SERVICES BLOCK GRANT \$ 66,347,353

LOW-INCOME ENERGY BLOCK GRANT

Local Program Expenditures

Division of Social Services

01.	Low-Income Energy Assistance Program (LIHEAP)	\$ 19,510,559
02.	Crisis Intervention Program (CIP)	14,588,514

Office of the Secretary – Office of Economic Opportunity

03.	Weatherization Program	6,268,946
04.	Heating Air Repair & Replacement Program (HARRP)	2,923,950

Local Administration

Division of Social Services

05.	County DSS Administration	2,259,757
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Office of the Secretary – Office of Economic Opportunity

06.	Local Residential Energy Efficiency Service Providers – Weatherization	268,146
07.	Local Residential Energy Efficiency Service Providers – HARRP	125,067

DHHS Administration

08.	Division of Social Services	219,410
09.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	7,389
10.	Office of the Secretary/DIRM	245,395
11.	Office of the Secretary/Controller's Office	11,211
12.	Office of the Secretary/Office of Economic Opportunity – Weatherization	268,146
13.	Office of the Secretary/Office of Economic Opportunity – HARRP	125,067

Transfers to Other State Agencies

- 14. Department of Administration –
N.C. State Commission of Indian Affairs
60,947

TOTAL LOW-INCOME ENERGY BLOCK GRANT \$ 46,882,504

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

Local Program Expenditures

Division of Child Development

- 01. Subsidized Child Care Services \$148,484,960
- 02. Child Care Services Support – Contract 504,695
- 03. Subsidized Child Care Services (TANF to CCDF) 84,330,900

DHHS Program Expenditures

Division of Child Development

- 04. Quality and Availability Initiatives 27,298,901

Local Administration

Division of Social Services

- 05. Administrative Expenses (Nondirect Subsidy Services Support) 15,813,021

DHHS Administration

- 06. DCD Administrative Expenses 6,540,707

DHHS Central Management and Support

- 07. DHHS Central Administration – DIRM Technical Services 749,081

TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT \$283,722,265

MENTAL HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01.	Mental Health Services – Adult	\$ 6,854,932
02.	Mental Health Services – Child	3,921,991
03.	Comprehensive Treatment Service Program	1,500,000
04.	Mental Health Services – UNC School of Medicine, Department of Psychiatry	300,000

Local Administration

05.	Division of Mental Health	100,000
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TOTAL MENTAL HEALTH SERVICES BLOCK GRANT \$ 12,676,923

SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

Local Program Expenditures

01.	Substance Abuse Services – Adult	\$ 21,938,080
02.	Substance Abuse Services – ADATC One-Time Expenses	70,000
03.	Substance Abuse Treatment Alternative for Women	8,069,524
04.	Substance Abuse – HIV and IV Drug	5,116,378
05.	Substance Abuse Prevention – Child	7,186,857
06.	Substance Abuse Services – Child	4,940,500

Division of Public Health

07.	Risk Reduction Projects	633,980
08.	Aid-to-Counties	209,576
09.	Maternal Health	37,779

DHHS Administration

10.	Division of Mental Health	500,000
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TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	\$ 48,702,674
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MATERNAL AND CHILD HEALTH BLOCK GRANT

Local Program Expenditures

Division of Public Health

01. Children's Health Services	7,415,569
02. Women's Health	7,504,019
03. Oral Health	35,951

DHHS Program Expenditures

Division of Public Health

04. Children's Health Services	1,554,428
05. Women's Health	121,285
06. State Center for Health Statistics	120,364
07. Quality Improvement in Public Health	14,646
08. Health Promotion	84,843
09. Office of Minority Health	51,562
10. Immunization Program – Vaccine Distribution	310,667
11. Task Force on Preventing Childhood Obesity	100,000

DHHS Administration

12. Division of Public Health Administration	631,966
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TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	\$ 17,945,300
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PREVENTIVE HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01. NC Statewide Health Promotion	\$1,755,653
02. Services to Rape Victims	197,112

03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819
DHHS Program Expenditures		
04.	NC Statewide Health Promotion	1,508,889
05.	Oral Health	70,000
06.	State Laboratory of Public Health	16,600
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$3,694,073

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity – Community Services Block Grant

01.	Community Action Agencies	\$ 16,062,653
02.	Limited Purpose Agencies	892,370

DHHS Administration

03.	Office of Economic Opportunity	892,369
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TOTAL COMMUNITY SERVICES BLOCK GRANT		\$ 17,847,392
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GENERAL PROVISIONS

SECTION 10.17.(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 10.17.(c) Changes in Federal Fund Availability. – If the Congress of the United States 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 proportionally across the program and activity appropriations identified for that Block Grant 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 State administrative expenditures.

If the Congress of the United States decreases 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 reduce State administration by at least the percentage of the reduction in federal funds. After determining the State administration, the remaining reductions shall be allocated proportionately 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 unless it is related to the State administration.

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 Commission 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 10.17.(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. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)

SECTION 10.17.(e) The sum of nine hundred ninety-five thousand one hundred forty-two dollars (\$995,142) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 10.17.(f) The sum of two million two hundred thousand dollars (\$2,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 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, 2008. 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, 2008, 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, 2008. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

SECTION 10.17.(g) The sum of two million forty-nine thousand six hundred forty-two dollars (\$2,049,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year 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, school dropout, and gang participation. 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.

SECTION 10.17.(h) The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2008-2009 fiscal year for child welfare improvements, shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and postadoption services for eligible families.

SECTION 10.17.(i) 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 2008-2009 fiscal year shall be used in accordance with Section 10.31 of S.L. 2007-323. 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 10.17.(j) The sum of one million two hundred thousand dollars (\$1,200,000) in this section appropriated to the Department of Health and Human Services in the TANF Block Grant for the 2008-2009 fiscal year shall be used to implement N.C. FAST (North Carolina Families Accessing Services through Technology). The N.C. FAST program involves the entire automation initiative through which families access services and local departments of social services deliver benefits, supervised by the Department of Health and Human Services, Divisions of Social Services, Aging and Adult Services, Medical Assistance, and Child Development. The statewide automated initiative shall be implemented in compliance with federal regulations in order to ensure federal financial participation in the project. 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, 2009.

SECTION 10.17.(k) 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 for the 2008-2009 fiscal year 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, school dropout, and gang participation. 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.

SECTION 10.17.(l) In implementing the TANF Block Grant, the Department of Health and Human Services shall review policies, programs, and initiatives to ensure that they support men in their role as fathers and strengthen fathers' involvement in their children's lives. The Department shall encourage county departments of social services to ensure their Work First programs emphasize responsible fatherhood and increased participation by noncustodial fathers.

SECTION 10.17.(m) 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 for the 2008-2009 fiscal year shall be transferred to Connect, Inc. Connect, 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 Connect, 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 Connect, 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, 2008.

SECTION 10.17.(n) The sum of two million dollars (\$2,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs for the 2008-2009 fiscal year 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 gang participation, 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 10.17.(o) The Department of Health and Human Services, Division of Social Services, shall continue implementing county demonstration grants that began in the 2006-2007 fiscal year. The county demonstration grants may be awarded for up to three years with all projects ending no later than the end of fiscal year 2009-2010. The purpose of the county demonstration grants is to identify best practices that can be used by counties to improve the work participation rates. The Division of Social Services is authorized to establish two time-limited positions to manage the grant award process and monitor the demonstration projects through fiscal year 2009-2010.

Funding provided under the county demonstration grants shall not be used to supplant local funds, and counties shall be required to maintain the current level of effort and funding for the Work First program.

The Department of Health and Human Services, Division of Social Services, shall report on the status of county demonstration grants implemented pursuant to 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 February 1, 2009.

SECTION 10.17.(p) The sum of six hundred thousand dollars (\$600,000) appropriated under this section in the TANF block grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year shall be used to implement a Citizens Schools Program, a three-year urban/rural dropout prevention pilot program in the Durham and Vance county public school systems. The Citizens Schools Program provides high-quality, extended learning time for middle school students in schools with high percentages of minority students, poor students, or both, and students with other risk factors for dropping out and reduces the rate of teen pregnancy. Students in the Citizens Schools Program receive after-school instruction in groups of eight to 12 students per adult. The instruction includes: (i) 60 minutes of daily academic support with strong study skills and critical thinking components, (ii) four 11-week apprenticeships, using volunteers as leaders focusing on 21st century skills, and (iii) career exploration and choice time to further explore a variety of interests. Citizens Schools Team Leaders contact each student's family by telephone at least every two weeks to discuss the student's participation and progress.

North Carolina State University shall evaluate the program to ensure that the program is effectively helping students stay in school and successfully graduate in their four-year cohort. The evaluation shall include a long-term study of the graduation cohort rate increase as well as short-term measures, including attendance, grade point average, discipline, the program dropout rate, credits earned, and postsecondary education matriculation. Not later than January 1, 2009, North Carolina State University

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 results of its evaluation.

SOCIAL SERVICES BLOCK GRANT

SECTION 10.17.(q) Social Services Block Grant funds appropriated to the North Carolina Inter-Agency Council for Coordinating Homeless Programs and the North Carolina Housing Coalition are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.17.(r) The sum of two million six hundred forty-nine thousand six hundred forty-two dollars (\$2,649,642) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2008-2009 fiscal year shall be used to support the existing Support Our Students program, including gang prevention, 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 10.17.(s) The sum of two million seven hundred thirty-eight thousand eight hundred twenty-seven dollars (\$2,738,827) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year 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 Master's Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
- (3) Provide training for residential child-caring facilities.
- (4) Provide for various other child welfare training initiatives.

SECTION 10.17.(t) The sum of eight hundred thirty-eight thousand dollars (\$838,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services for the 2008-2009 fiscal year shall be used to purchase services at maternity homes throughout the State.

SECTION 10.17.(u) The sum of two million three hundred seventy-two thousand five hundred eighty-seven dollars (\$2,372,587) appropriated in this section in the Social Services Block Grant for child-caring agencies for the 2008-2009 fiscal year shall be allocated to the State Private Child-Caring Agencies Fund.

SECTION 10.17.(v) The sum of two hundred ninety thousand dollars (\$290,000) appropriated in this section in the Social Services Block Grant for services to medically fragile children for the 2008-2009 fiscal year shall be used for the child care component of pediatric day treatment centers for medically fragile children.

SECTION 10.17.(w) The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

SECTION 10.17.(x) 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.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 10.17.(y) 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 10.17.(z) 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.

MENTAL HEALTH BLOCK GRANT

SECTION 10.17.(aa) 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 2008-2009 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 2008-2009 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 10.10 of S.L. 2007-323.

SECTION 10.17.(bb) Of the three hundred thousand dollars (\$300,000) appropriated for the UNC School of Medicine, Department of Psychiatry, for the 2008-2009 fiscal year, the sum of two hundred thousand dollars (\$200,000) shall be used to: (i) expand the Department of Psychiatry's Schizophrenia Treatment and Evaluation Program (STEP) into a community setting, (ii) provide training for the next generation of psychiatrists, social workers, psychologists, and nurses to address the current workforce crisis, (iii) provide statewide training and consultation in evidence-based practices, and (iv) provide ongoing support for the STEP and OASIS clinics.

Of the three hundred thousand dollars (\$300,000) appropriated for the UNC School of Medicine, Department of Psychiatry, for the 2008-2009 fiscal year, the sum of one hundred thousand dollars (\$100,000) shall be used to provide bridge funding for OASIS, a statewide program providing targeted, intense interventions to individuals in the early stages of schizophrenia when chronicity and disability may be most preventable. Funds shall be used to support OASIS as foundation support ends, allowing OASIS to transition to funding through private insurance, Medicaid, State appropriations for Mental Health, Developmental Disabilities, and Substance Abuse Services, and other funding streams.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 10.17.(cc) The sum of one hundred thousand dollars (\$100,000) appropriated in this section in the Maternal and Child Health Block Grant to the Department of Health and Human Services, Division of Public Health, for the

2008-2009 fiscal year shall be used to establish a Task Force on Preventing Childhood Obesity (Task Force) to be cochaired by the State Health Director and the Chairman of the State Board of Education. The Task Force is to review current State activities in the Department of Health and Human Services, the Department of Public Instruction, and the Health and Wellness Trust Fund and develop a comprehensive statewide strategic plan with recommendations for preventing childhood obesity. The goals of the strategic plan shall encompass the following framework of initiatives:

- (1) Providing healthier foods to students;
- (2) Improving the availability of healthy foods at home and in the community;
- (3) Increasing the frequency, intensity, and duration of physical activity in schools;
- (4) Encouraging communities to establish a master plan for pedestrian and bicycle pathways;
- (5) Improving access to safe places where children can play; and
- (6) Developing activities or programs that limit children's screen time, including limits on video games and television.

Membership on the task force shall include, but is not limited to, representatives from the following organizations:

- (1) Health and Wellness Trust Fund.
- (2) North Carolina Institute for Public Health.
- (3) UNC Active Living by Design.
- (4) Blue Cross Blue Shield of North Carolina.
- (5) NC Hospital Association.
- (6) NC Parent Teacher Association.
- (7) American Heart Association.
- (8) School Nutrition Association of North Carolina.

The Chairman of the State Board of Education and the State Health Director shall report to the House of Representatives Chairs of the Appropriations Subcommittees on Health and Human Services and Education, the Senate Chairs of the Appropriations Committees on Health and Human Services and Education/Public Instruction, the Joint Legislative Oversight Committee on Education, the Joint Legislative Oversight Committee on Health, and the Fiscal Research Division on the Task Force on Preventing Childhood Obesity's strategic plan and recommendations by January 15, 2009, or upon the convening of the 2009 Session of the General Assembly, whichever occurs first.

SECTION 10.17.(dd) 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 2008-2009 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 10.17.(ee) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

STUDY CERTAIN DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES FEES

SECTION 11.1.(a) The Department of Agriculture and Consumer Services, in consultation with the Office of State Budget and Management and the Fiscal Research Division, shall study the following:

- (1) The feasibility and advisability of increasing the fees imposed by either the Board of Agriculture or the Department regarding services provided by the Rollins Laboratory System.
- (2) The feasibility and advisability of establishing fees for soil testing services provided by the Agronomics Division of the Department.
- (3) The feasibility and advisability of using alternative sources of funding for the "Agricultural Review", an agriculture newsletter published by the Department, including charging fees for advertisements or classified advertisements and soliciting private sponsors for the newsletter.

SECTION 11.1.(b) In the course of the study under subsection (a) of this section, the Department may consider other fees imposed by either the Board of Agriculture or the Department, the administrative costs associated with these fees, and current usage rates for various services provided by the Department.

SECTION 11.1.(c) No later than March 1, 2009, the Department of Agriculture and Consumer Services shall report the results of the study under this section, including any recommendations or legislative proposals, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources.

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND AMENDMENTS.

SECTION 12.1. G.S. 87-98 reads as rewritten:

"§ 87-98. Bernard Allen Memorial Emergency Drinking Water Fund.

(a) The Bernard Allen Memorial Emergency Drinking Water Fund is established under the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing fund consisting of monies appropriated by the General Assembly or made available to the Fund from any other source and investment interest credited to the Fund.

(b) The Fund may be used to pay for notification, to the extent practicable, of persons aged 18 and older who reside in any dwelling unit, and the senior official in charge of any business, at which drinking water is supplied from a private drinking water well or improved spring that is located within 1,500 feet of, and at risk from, known groundwater contamination. The senior official in charge of the business shall take reasonable measures to notify all employees of the business of the groundwater contamination, including posting a notice of the contamination in a form and at a location that is readily accessible to the employees of the business. The Fund may also be used by the Department to pay the costs of testing of private drinking water wells and improved springs for suspected contamination up to once every three years upon request

by a person who uses the well and for the temporary or permanent provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated. Under this subsection, an alternative drinking water supply includes the repair or replacement of a contaminated well or the connection to a public water supply.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. ~~The Fund shall not be used for remediation of groundwater contamination. Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination.~~ The Fund shall not be used to provide alternative water supply to households with incomes greater than three hundred percent (300%) of the current federal poverty level. ~~The Fund shall not~~may be used to provide alternative drinking water supplies ~~unless if the Department determines that the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the federal Maximum Contaminant Level~~maximum contaminant level, or the federal drinking water action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July ~~2006~~)2007) and 40 Code of Federal Regulations § 143.3 (1 July ~~2006~~)2007). For a contaminant for which a federal maximum contaminant level or drinking water action level has not been established, the State groundwater standard established by the Environmental Management Commission for the concentration of that contaminant shall be used to determine whether the Fund may be used to provide alternative drinking water supplies. The Fund may also be used to provide alternative drinking water supplies as provided in this section if the Department determines that the concentration of one or more contaminants in a private drinking water well is increasing over time and that there is a significant risk that the concentration of a contaminant will exceed the federal maximum contaminant level or drinking water action level, or the State groundwater standard. A determination of the concentration of a contaminant shall be based on a sample of water collected from the private drinking water well within the past 12 months. The Fund shall not be used to provide temporary water supplies in any calendar quarter until all needs for permanent replacement water supplies that have been identified in that calendar quarter have been met through hookups to public water supplies, repair, or replacement of contaminated wells.

(c1) ~~In disbursing monies from the Fund, preference shall be given to providing the Department shall give preference to provision of permanent replacement water supplies by connection to public water supplies and repair or replacement of contaminated wells over the provision of temporary water supplies. In providing alternative drinking water supplies, the Department shall give preference to connection to a public water supply system or to construction of a new private drinking water well over the use of a filtration system if the Department determines that the costs of periodic required maintenance of the filtration system would be cost-prohibitive for users of the alternative drinking water supply.~~

(c2) If the Department provides an alternative drinking water supply by extension of a waterline, the Department may disburse from the Fund no more than ten thousand dollars (\$10,000) per household or other service connection. No more than one-third of the total cost of the project may be paid from the Fund. The Department may combine

monies from the Fund with monies from other sources in order to pay the total cost of the project.

(c3) The Fund shall be used to provide alternative drinking water supplies only if the Department determines that the person or persons who are responsible for the contamination of the private drinking water well is or are not financially viable or cannot be identified or located and if the Department determines that one of the following applies:

- (1) The contamination of the private drinking water well is naturally occurring.
- (2) The owner of the property on which the private drinking water well is located did not cause or contribute to the contamination or control the source of the contamination.
- (3) The source of the contamination is the application or disposal of a hazardous substance or pesticide that occurred without the consent of the owner of the property on which the private drinking water well is located.

(c4) The Department may use up to one hundred thousand dollars (\$100,000) of the monies in the Fund to pay the personnel and other direct costs associated with the implementation of this section.

(c5) The Fund shall not be used for remediation of groundwater contamination.

(c6) Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination.

(d) The Department shall establish criteria by which the Department is to evaluate applications and disburse monies from this Fund and may adopt any rules necessary to implement this section.

(e) The Department, in consultation with the Commission for Public Health and local health departments, shall report no later than 1 October of each year to the Environmental Review Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may also include recommendations for any legislative action."

INACTIVE HAZARDOUS WASTE SITES REPORT REQUIREMENT

SECTION 12.1A.(a) G.S. 130A-310.2 reads as rewritten:

"§ 130A-310.2. Inactive Hazardous Waste Sites Priority List.

(a) No later than six months after July 1, 1987, the Commission shall develop a system for the prioritization of inactive hazardous substance or waste disposal sites based on the extent to which such sites endanger the public health and the environment. The Secretary shall apply the prioritization system to the inventory of sites to create and maintain an Inactive Hazardous Waste Site Priority List, which shall rank all inactive hazardous substance or waste disposal sites in decreasing order of danger. This list shall identify the location of each site and the type and amount of hazardous substances or waste known or believed to be located on the site. The first such list shall be published within two years after July 1, 1987, with subsequent lists to be published at intervals of not more than two years thereafter. The Secretary shall notify owners, operators, and

responsible parties of sites listed on the Inactive Hazardous Waste Sites Priority List of their ranking on the list. The Inactive Hazardous Sites Priority List shall be used by the Department in determining budget requests and in allocating any State appropriation which may be made for remedial action, but shall not be used so as to impede any other action by the Department, or any remedial or other action for which funds are available.

(b) No later than January 1 of each year, the Department shall report to each member of the General Assembly who has an inactive hazardous substance or waste disposal site in the member's district. This report shall include the location of each inactive hazardous substance or waste disposal site in the member's district, the type and amount of hazardous substances or waste known or believed to be located on each of these sites, the last action taken at each of these sites, and the date of that last action."

SECTION 12.1A.(b) The initial report under G.S. 130A-310.2(b), as amended by this section, shall be due no later than January 1, 2009.

AGRICULTURAL DROUGHT RESPONSE COST SHARE PROGRAM

SECTION 12.4.(a) Agricultural Drought Response Cost Share Program. – The Agricultural Drought Response Cost Share Program is established. The Program shall provide cost share funds to assist North Carolina farmers who suffered damage from the severe and extreme drought conditions in North Carolina in 2007. These cost share funds shall be used to assist farmers with the following projects:

- (1) To redrill damaged wells or to drill new wells to be used as a water supply for livestock or for irrigation.
- (2) To renovate damaged or inadequate farm ponds or construct new farm ponds to be used as a water supply for livestock or for irrigation.
- (3) To renovate pastures depleted by the 2007 drought.

SECTION 12.4.(b) Program Administration. – The Program shall be implemented and supervised by the Soil and Water Conservation Commission through the Agriculture Cost Share Program for Nonpoint Source Pollution Control. The Commission shall administer this Program as provided in this section and in Part 9 of Article 21 of Chapter 143 of the General Statutes.

SECTION 12.4.(c) Program Functions. – Under the Agricultural Drought Response Cost Share Program, the Division shall:

- (1) Within funds available for this Program, provide cost share funds subject to all of the following limitations and requirements:
 - a. Except as provided in G.S. 143-215.74(b)(9), State funding shall be limited to:
 1. Seventy-five percent (75%) of the average cost for each project with the assisted person providing twenty-five percent (25%) of the project cost, which may include in-kind support of the project.
 2. A maximum of seventy-five thousand dollars (\$75,000) per year to each applicant.
 - b. Applicants shall be limited to farmers who have an adjusted gross income in each of the previous two years that is at or below two hundred fifty thousand dollars (\$250,000), unless at least seventy-five percent (75%) of this adjusted gross income is derived directly from farming, ranching, or forestry operations.

- c. To be eligible for cost share funds under subdivision (1) or subdivision (2) of subsection (a) of this section, applicants must demonstrate that their existing water supplies are insufficient to provide reliable water to meet current needs for livestock watering or irrigation.
 - d. Applicants may apply for cost share funds for projects under subsection (a) of this section that were installed as of August 1, 2007, so long as the costs of installation are documented to the satisfaction of the Commission.
 - e. The requirements and limitations under subdivisions (1), (2), (5), and (8) of subsection (b) of G.S. 143-215.74 do not apply. All other limitations and requirements set out in Part 9 of Article 21 of Chapter 143 of the General Statutes, as modified by this section, apply.
- (2) Establish criteria to prioritize the redrilling of damaged wells and the drilling of new wells, the renovation of damaged or inadequate farm ponds and the construction of new farm ponds, and the renovation of pastures depleted by the drought.
 - (3) Establish criteria for the selection of applicants who are eligible for participation in the Program.
 - (4) Develop a process for soliciting and reviewing applications and for selecting farmers to participate in the Program.
 - (5) Investigate and pursue other funding sources to supplement State funds, including federal, local, and private funding sources.
 - (6) Provide technical assistance to participating persons to assist with the projects that are eligible for cost share funds under subsection (a) of this section and to facilitate the timely transfer of technology among participating persons.

SECTION 12.4.(d) Report. – No later than 31 January of each year, the Division shall prepare a comprehensive report on the implementation of subsections (a) through (c) of this section. The report shall be submitted to the Environmental Review Commission as a part of the report required by G.S. 143-215.74(e). The first report required by this subsection shall be submitted to the Environmental Review Commission no later than 31 January 2009.

SECTION 12.4.(e) Program Funds. – The Soil and Water Conservation Commission may use up to one hundred fifteen thousand dollars (\$115,000) of the funds appropriated in this act to the Department of Environment and Natural Resources for the 2008-2009 fiscal year to be used for the Agricultural Drought Response Cost Share Program for the Division of Soil and Water Conservation and for the Soil and Water Conservation Districts for the costs of providing engineering assistance, providing technical assistance, and administering the Program. Further, twenty-five percent (25%) of the remaining funds shall not be allocated during the initial funding cycle, but shall be retained to be allocated by the Commission consistent with the limitations under this section, for the purposes under this section, and to address future drought emergencies or to allocate to farmers who received cost share funds under this section who need additional funds to achieve the purpose of the initial cost share disbursement.

INACTIVE HAZARDOUS WASTE SITES CLEANUP FUNDS

SECTION 12.5. There is appropriated from the interest earned on the Dry Cleaning Solvent Cleanup Fund during the 2007-2008 fiscal year to the Department of Environment and Natural Resources the sum of four hundred thousand dollars (\$400,000) for the 2008-2009 fiscal year to be used, notwithstanding G.S. 143-215.104C, to assess and remove contamination from inactive hazardous waste sites throughout the State and to provide an alternative drinking water supply to any person whose water supply was contaminated by an inactive hazardous waste site.

COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND

SECTION 12.6.(a) There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of seven hundred ninety-one thousand six hundred fourteen dollars (\$791,614) for the 2008-2009 fiscal year. Notwithstanding G.S. 143-215.94B, these funds shall be used to establish and support 11 positions within the underground storage tank program as follows:

- (1) \$92,643 shall be used to establish and support one Environmental Program Supervisor II position.
- (2) \$615,953 shall be used to establish and support nine Environmental Specialist positions.
- (3) \$83,018 shall be used to establish and support one Environmental Engineer I position.

SECTION 12.6.(b) The positions under subsection (a) of this section shall be used to increase compliance inspection frequency for the underground storage tank program within the Department and to conduct operator training for those underground storage tank systems that are subject to regulation under Part 2A or Part 2B of Article 21A of Chapter 143 of the General Statutes. It is the intent of the General Assembly that funds for these positions under this section are recurring funds and that these funds are in addition to funds previously appropriated to the Department of Environment and Natural Resources for the 2008-2009 fiscal year.

FUNDS FOR PENDING CIVIL LITIGATION EXPENSES

SECTION 12.7. From funds in the I & M Air Pollution Control Account, there is appropriated the sum of seven hundred fifty thousand dollars (\$750,000) for the 2008-2009 fiscal year to the Office of State Budget and Management, Litigation Reserve. Notwithstanding G.S. 143-215.3A, these funds shall be used by the Department of Justice solely for expenses related to either ex rel. Cooper v. Tennessee Valley Authority, No. 1:06CV20 (W.D.N.C. filed Jan. 30, 2006) or South Carolina v. North Carolina, No. 220138 ORG (U.S. Sup. Ct. filed June 7, 2007). Any of these funds that remain unused on June 30, 2009, shall revert to the I & M Air Pollution Control Account.

ESTABLISH NC CONSERVATION EASEMENT ENDOWMENT FUND

SECTION 12.9.(a) Article 18 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ 113A-253.2. North Carolina Conservation Easement Endowment Fund.

(a) The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment

Fund shall consist of a portion of grant funds transferred by the Trustees to the Endowment Fund from the Clean Water Management Trust Fund for stewardship activities related to projects for conservation easements funded from the Clean Water Management Trust Fund. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Board of Trustees. No expenditure or disbursement shall be made from the principal of the Endowment Fund.

(b) The Trustees may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State."

SECTION 12.9.(b) G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(17i) The North Carolina Conservation Easement Endowment Fund."

SECTION 12.9.(c) G.S. 147-69.2 is amended by adding a new subsection to read:

"(d) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17i) of this section in any of the investments authorized under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection shall remain the funds of the North Carolina Conservation Easement Endowment Fund, and interest or other investment income earned thereon shall be prorated and credited to the North Carolina Conservation Easement Endowment Fund on the basis of the amounts thereof contributed, figured according to sound accounting principles."

MARINE FISHERIES FUNDS FOR THE FISHERY RESOURCE GRANT PROGRAM

SECTION 12.11.(a) Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Division of Marine Fisheries for the Fishery Resource Grant Program established under G.S. 113-200, the sum of one million dollars (\$1,000,000) for the 2008-2009 fiscal year shall be used as follows:

- (1) \$853,688 shall be used for the Fishery Resource Grant Program in accordance with G.S. 113-200.
- (2) \$146,312 shall be used for river herring research in the Department, notwithstanding G.S. 113-200.

SECTION 12.11.(b) Neither the Department of Environment and Natural Resources nor North Carolina State University may use any of the funds allocated under subsection (a) of this section for administrative costs.

STUDY ADDING AREA SURROUNDING RUTHERFORD TRACE TO STATE PARKS SYSTEM

SECTION 12.12. 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 park for inclusion in the State Parks System on property surrounding Rutherford Trace in McDowell County. The study shall include estimates of the cost of purchasing the land and the costs of developing and operating the proposed State park. The Division shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources no later than February 1, 2009.

CONSERVATION GRANT FUND INVESTMENTS

SECTION 12.13. G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(17j) The Conservation Grant Fund."

PART XIII. DEPARTMENT OF COMMERCE

ONE NORTH CAROLINA FUND

SECTION 13.1. Section 13.1 of S.L. 2007-323 reads as rewritten:

"**SECTION 13.1.(a)** Of the funds appropriated in this act to the One North Carolina Fund for the ~~2007-2008~~2008-2009 fiscal year, 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 ~~2007-2008~~2008-2009 fiscal year.

SECTION 13.1.(b) Of the funds appropriated in this act to the One North Carolina Fund for the 2007-2008 fiscal year, the sum of six hundred fifty thousand dollars (\$650,000) shall be transferred to the Department of Environment and Natural Resources, Division of Information Technology Services, for the development of a Tier II hazardous chemicals inventory database and Web-based access application.

SECTION 13.1.(c) If any One North Carolina funds that have been previously awarded and disbursed are recovered by the Department of Commerce during the 2007-2008 fiscal year, the Department of Commerce may use up to one million dollars (\$1,000,000) of the recovered funds to supplement the Department's budget for statewide economic development marketing and business assistance, including continued development and maintenance of the Department's Web site, development of software and systems to improve service to North Carolina businesses, and the promotion of North Carolina nationally and internationally as a location for business growth and expansion through advertising, events-related marketing, and hosting international economic development conferences. Funds recovered by the Department of Commerce under this subsection in the 2007-2008 fiscal year that are unencumbered and unexpended as of June 30, 2008, may be used by the Department in the 2008-2009 fiscal year for Client Relationship Management software and to upgrade the building and sites database and website for the Certified Sites Program."

NC GREEN BUSINESS FUND

SECTION 13.2. Of the funds appropriated in this act to the NC Green Business Fund for the 2008-2009 fiscal year, the Department of Commerce may use up

to fifty thousand dollars (\$50,000), if necessary, to cover the Department's expenses in administering the NC Green Business Fund.

CIAA BASKETBALL TOURNAMENT TOURISM AND MARKETING

SECTION 13.2A. Of the funds available to the Tourism, Film, and Sports Development Division of the Department of Commerce, the sum of five hundred thousand dollars (\$500,000) for fiscal year 2008-2009 shall be used to support marketing and tourism promotion for the Central Intercollegiate Athletic Association Tournament to be held in Charlotte February 23-28, 2009.

FUNDS FOR ENVIROTHON AND WNC COMMUNITIES

SECTION 13.2B.(a) Of the funds appropriated to the Department of Commerce, Division of Tourism, Film and Sports Development, the sum of seventy-five thousand dollars (\$75,000) for the 2008-2009 fiscal year is allocated to the NC Foundation for Soil and Water Conservation, Inc., a nonprofit organization, for planning and other activities involved in North Carolina serving as the host state to the 2009 North America Envirothon Competition to be held in Asheville.

SECTION 13.2B.(b) Of the funds appropriated to the Department of Commerce, Division of Tourism, Film and Sports Development, the sum of seventy-five thousand dollars (\$75,000) for the 2008-2009 fiscal year is allocated to WNC Communities, a nonprofit organization.

WELCOME/VISITOR CENTER CONSTRUCTION

SECTION 13.3. S.L. 2007-356 reads as rewritten:

"**SECTION 1.** The Department of Commerce and the Department of Transportation shall consult with the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Natural and Economic Resources before beginning the design or construction of any new welcome center or visitor center buildings.

"**SECTION 2.** The Department of Commerce and the Department of Transportation shall immediately cease the planning, design, or construction of any new welcome center buildings in Randolph County and shall not resume the planning, design, or construction of any new welcome center buildings in that county before consulting with the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Natural and Economic Resources.

"**SECTION 3.** Nothing in this act shall be interpreted to prohibit or restrict the Department of Transportation from constructing visitor center buildings in Randolph County and Wilkes County that were in the planning, design, or construction phase prior to the effective date of this act. ~~The Department of Commerce shall operate the Randolph County visitor center with funding sources consistent with the existing nine welcome centers, excluding use of funds from the Special Registration Plate Account and the Highway Fund.~~

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

WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS

SECTION 13.4. Section 13.3A of S.L. 2007-323 reads as rewritten:

"**SECTION 13.3A.(a)** Funds appropriated to the Department of Commerce for the ~~2006-2007~~2007-2008 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and unencumbered as of ~~June 30, 2007~~June 30, 2008, shall not revert to

the General Fund on ~~June 30, 2007~~, June 30, 2008, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

"**SECTION 13.3A.(b)** Funds appropriated to the Department of Commerce for the ~~2006-2007~~2007-2008 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of ~~June 30, 2007~~, June 30, 2008, shall not revert to the General Fund on ~~June 30, 2007~~, June 30, 2008, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for securing adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

"**SECTION 13.3A.(c)** This section becomes effective ~~June 30, 2007~~, June 30, 2008."

NER BLOCK GRANTS

SECTION 13.5.(a) Appropriations from federal block grant funds are made for fiscal year ending June 30, 2009, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 1,000,000
02. Urgent Needs and Contingency	1,000,000
03. Scattered Site Housing	13,200,000
04. Economic Development	8,710,000
05. Small Business/Entrepreneurship	1,000,000
06. Community Revitalization	13,000,000
07. State Technical Assistance	450,000
08. Housing Development	1,500,000
09. Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2009 Program Year	\$ 45,000,000

SECTION 13.5.(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 13.5.(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 13.5.(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 one million dollars (\$1,000,000) 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; eight million seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; up to one million dollars (\$1,000,000) may be used for Small Business/Entrepreneurship; not less than thirteen million dollars (\$13,000,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to one million five hundred thousand dollars (\$1,500,000) 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 13.5.(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 13.5.(f) 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.

EMPLOYMENT SECURITY COMMISSION FUNDS

SECTION 13.6. Section 13.4 of S.L. 2007-323 reads as rewritten:

"**SECTION 13.4.(a)** Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the ~~2007-2008~~2008-2009 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

"**SECTION 13.4.(b)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of ~~seven million three hundred thousand dollars (\$7,300,000)~~twenty million dollars (\$20,000,000) for the ~~2007-2008~~2008-2009 fiscal year to be used for the following purposes:

- (1) ~~Seven million dollars (\$7,000,000)~~Nineteen million seven hundred thousand dollars (\$19,700,000) for the operation and support of local ESC 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 13.4.(c)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed ~~two million five hundred thousand dollars (\$2,500,000)~~one million dollars (\$1,000,000) for the ~~2007-2008~~2008-2009 fiscal year to fund State initiatives not currently funded through federal grants.

"**SECTION 13.4.(d)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed three hundred fifty thousand dollars (\$350,000) for the ~~2007-2008~~2008-2009 fiscal year to allow the Commission to continue to work with Connect, Inc., to provide dislocated workers with assistance in obtaining health care benefits, receiving vocational training, and securing employment.

"**SECTION 13.4.(e)** This section becomes effective ~~July 1, 2007~~July 1, 2008."

NC WINE AND GRAPE GROWERS COUNCIL/ADDITIONAL FUNDS FOR RESEARCH AND DEVELOPMENT

SECTION 13.6A.(a) G.S. 105-113.81A reads as rewritten:

"§ 105-113.81A. **Distribution of part of wine taxes attributable to North Carolina wine.**

(a) Industry Promotion. – The Secretary shall on a quarterly basis credit to the Department of Commerce two hundred thousand dollars (\$200,000) from the net proceeds of the excise tax collected on unfortified wine. The Department of Commerce shall allocate the funds received under this ~~section~~subsection to the North Carolina Wine and Grape Growers Council to be used to promote the North Carolina grape and

~~wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina industry.~~ Any funds credited to the Department of Commerce under this subsection that are not expended by June 30 of any fiscal year do not revert to the General Fund, but remain available to the Department for the uses set forth in this ~~section~~subsection.

(b) Research and Development. – The Secretary shall on a quarterly basis credit to the Department of Commerce twenty-five thousand dollars (\$25,000) from the net proceeds of the excise tax collected on unfortified wine. The Department of Commerce shall allocate the funds received under this subsection to the North Carolina Wine and Grape Growers Council to be used to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the Department of Commerce under this subsection that are not expended by June 30 of any fiscal year do not revert to the General Fund, but remain available to the Department for the uses set forth in this subsection."

SECTION 13.6A.(b) This section becomes effective October 1, 2008.

STATE BANKING COMMISSION/GRANTS TO NONPROFIT AGENCIES TO PROVIDE HOUSING COUNSELING AND RELATED SERVICES

SECTION 13.6B.(a) The Commissioner of Banks shall use one million dollars (\$1,000,000) of the funds available to the State Banking Commission in the 2008-2009 fiscal year to make grants to nonprofit counseling agencies in the State that are designated and approved by the North Carolina Housing Finance Agency. Grants made under this section shall be used to provide housing counseling and related services to help homeowners avoid home loss and foreclosure and to preserve home equity. Grants may also be used to provide training for counselors.

SECTION 13.6B.(b) The State Banking Commission shall report to the Joint Legislative Commission on Governmental Operations regarding the implementation of this program by February 15, 2009.

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 13.7.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Partnership, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, North Carolina's Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

SECTION 13.7.(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 development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and

- (2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of four hundred sixty-nine thousand seven hundred forty dollars (\$469,740) in the 2008-2009 fiscal year, which sum represents: (i) the total interest earnings in the prior 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 (ii) the total interest earnings in the prior fiscal year on loans made from the 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 four hundred sixty-nine thousand seven hundred forty dollars (\$469,740) in the 2008-2009 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 development 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.

SECTION 13.7.(c) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of a regional economic development commission.

SECTION 13.7.(d) The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

RURAL CENTER/FUNDS FOR LOCAL GOVERNMENT WATER, SEWER, AND NATURAL GAS IMPROVEMENT GRANTS

SECTION 13.8.(a) Appropriation. – Of the funds appropriated to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of fifty million dollars (\$50,000,000) for the 2008-2009 fiscal year shall be used to provide grants to local government units for wastewater-related projects and public water system-related projects as provided by this section. Up to four million dollars (\$4,000,000) of these funds may be used for natural gas line projects as provided by this section. Funds may also be used to provide drought-related emergency water and sewer grants.

SECTION 13.8.(b) Definitions. – The definitions in G.S. 159G-20 apply in this section, except that all census calculations are based on the most recent federal decennial census. In addition, the following definitions shall apply in this section unless otherwise provided:

- (1) Ability to pay. – An assessment of the ability of a local government unit to pay for a water infrastructure project or natural gas line project as calculated annually by the Division of Community Assistance in the Department of Commerce.
- (2) Economically distressed area. – Any of the following:

- a. An economically distressed county as defined in G.S. 143B-437.01.
 - b. That part of a county in which the poverty rate is at least one hundred fifty percent (150%) of the State poverty rate. The poverty rate is the percentage of the population whose income is below the most recent federal poverty level set by the U.S. Bureau of the Census.
 - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.
- (3) Rural county. – A county with a population density of fewer than 250 people per square mile based on the most recent federal decennial census.

SECTION 13.8.(c) Eligible Applicants; Eligible Projects. – A local government unit is eligible for a grant under this section if it meets the eligibility requirements under subsections (d) or (e) of this section for the specific type of grant. The funds appropriated under this section may be used to provide either a planning grant that meets the requirements under subsection (d) of this section or a supplemental grant that meets the requirements of subsection (e) of this section. The following projects are eligible for receiving a grant under this section:

- (1) Wastewater collection system.
- (2) Wastewater treatment works.
- (3) Public water system.
- (4) Wastewater and drinking water infrastructure planning.
- (5) Multi-jurisdictional wastewater, drinking water, water quality, and stormwater planning.
- (6) Natural gas line project.

SECTION 13.8.(d) Planning Grants. – A planning grant under this section is available for the costs associated with preliminary planning for wastewater collection system projects, wastewater treatment works projects, public water system projects, and natural gas line projects. Preliminary planning includes developing a capital improvement plan, developing a comprehensive land-use plan that provides for water quality protection, conducting a feasibility study, developing a regional or multi-jurisdictional infrastructure or water quality improvement plan, assembling a financing plan to carry out a project, completing a grant application, and preparing a preliminary engineering report for a proposed project. A planning grant is subject to the following restrictions:

- (1) Eligibility. – A local government unit is eligible for a planning grant if it meets the following criteria:
 - a. It is a rural county or is located in one of these counties.
 - b. It is an economically distressed county or is located in an economically distressed county or an economically distressed area.
 - c. For purposes of this subsection, a regional council of governments organized under G.S. 160A-460 or a regional planning and development commission organized under G.S. 153A-391 is considered a local government unit. A regional council of governments or regional planning and development commission is eligible for a grant if it serves a rural county and is applying for a regional or

multi-jurisdictional planning project involving two or more units of local government.

- (2) **Maximum.** – A planning grant shall not exceed forty thousand dollars (\$40,000) for each unit of local government.
- (3) **Matching funds.** – A local government unit shall match a planning grant on a dollar-for-dollar basis unless the unit meets one or more of the following descriptions, in which instance the Rural Center may require a match of fifty percent (50%) or less:
 - a. It is an economically distressed county or located in an economically distressed county.
 - b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
 - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.

SECTION 13.8.(e) **Supplemental Grants.** – A supplemental grant is available to match other funds to be applied to the construction costs of an eligible project. Other funds include federal funds, State funds, and local funds. A supplemental grant is subject to the following restrictions:

- (1) **Eligibility.** – A local government unit is eligible for a supplemental grant if it meets the following criteria:
 - a. It is a rural county or is located in one of these counties.
 - b. It adopts a resolution to set the household user fee for water and sewer service or natural gas service in the area served by the project at an amount that equals or exceeds the high-unit-cost threshold.
- (2) **Maximum.** – A supplemental grant shall not exceed five hundred thousand dollars (\$500,000) unless the applicant meets one or more of these descriptions:
 - a. It is an economically distressed county or is located in an economically distressed county.
 - b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
 - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.

The maximum supplemental grant for an applicant meeting at least one of these descriptions is the lesser of one million dollars (\$1,000,000) or twenty-five percent (25%) of the total project cost.

- (3) **Matching funds.** – A local government unit shall match a supplemental grant on a dollar-for-dollar basis unless the unit meets one or more of the following descriptions, in which instance the Rural Center may require a match of fifty percent (50%) or less:
 - a. It is an economically distressed county or is located in an economically distressed county.
 - b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
 - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.

A local government unit that meets one or more of these descriptions may not provide less than a dollar-for-dollar match if the supplemental

grant amount requested exceeds five hundred thousand dollars (\$500,000).

SECTION 13.8.(f) Criteria for Grants. – All projects must document a current critical water or wastewater need affecting human health or the environment or must document a current critical natural gas line project. The criteria in G.S. 159G-23, the criteria set out in this section, and any other criteria established by the Board of Directors of the Rural Center shall apply to a grant provided under this section. An application for a project that serves an economically distressed area shall have priority over a project that does not. The Board of Directors of the Rural Center may determine that a crisis need exists that merits special consideration and may establish a subcategory of this program to address one or more crisis applications.

SECTION 13.8.(g) Grant Applications. – Any application for a grant under this section shall be submitted by the local government unit to the Rural Center. An application shall be submitted on a form prescribed by the Rural Center and shall contain the information required by the Rural Center. An applicant shall submit to the Rural Center any additional information requested by the Rural Center to enable the Rural Center to make a determination on the application. An application that does not contain information required on the application or requested by the Rural Center is incomplete and is not eligible for consideration. An applicant may submit an application in as many categories as it is eligible for consideration under this section.

SECTION 13.8.(h) Environmental Assessment. – An application submitted under this section for a supplemental grant shall state whether the project to be funded by the grant requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. The Rural Center shall give the Department of Environment and Natural Resources a copy of an application that indicates an environmental assessment is not required. If the Department of Environment and Natural Resources determines that the project requires an environmental assessment, the Department shall notify the Rural Center and the applicant, and the applicant shall submit the assessment to the Department before the Center continues its review of the application. An application that does not identify an exclusion in the North Carolina Environmental Policy Act shall include the environmental assessment of the project's probable impacts on the environment that was submitted to the Department of Environment and Natural Resources. If the Department notifies the Rural Center that an environmental impact statement is required, the Rural Center shall not award the applicant a grant until a final environmental assessment impact statement has been completed and approved as provided in the Environmental Policy Act.

SECTION 13.8.(i) Review of Applications and Award of Grant. – The Rural Center shall review grant applications and award grants as provided by this subsection:

- (1) Point assignment. – The Rural Center shall review all grant applications submitted under this section for an application period, to be determined by the Rural Center, and shall rank each application in accordance with the points assigned to the evaluation criteria. Applications addressing a crisis need may be ranked according to a special set of criteria or be reviewed for a specifically determined application period. The Rural Center shall make a written determination of an application's rank and attach the determination to

the application. The Rural Center's determination of rank is conclusive.

- (2) **Reconsideration.** – When an application's rank is too low to receive an award of a grant for the application period, the Rural Center may reconsider an amended application, provided the application addresses questions from the previous grant round.
- (3) **Notification of decision.** – When the Rural Center determines that an application's rank makes it eligible for an award of a grant, the Rural Center shall send the applicant a letter of intent to award the grant. The notice shall set out any conditions the applicant must meet to receive an award of a grant. When the applicant satisfies the conditions set out in the letter of intent, the Rural Center shall send the applicant an offer to award a grant. The applicant shall give the Rural Center written notice of whether it accepts or rejects the offer. A grant is considered awarded the date the offer to award the grant is sent by the Rural Center.

SECTION 13.8.(j) **Disbursement of Grant.** – A planning grant awarded under this section shall be disbursed in two payments. Other grants awarded under this section shall be disbursed in two or more payments based on the progress of the project for which the grant was awarded. To obtain a payment, a grant recipient shall submit a request for payment to the Rural Center and shall document the expenditures for which the payment is requested. The Rural Center shall review the payment request for compliance with all grant conditions.

SECTION 13.8.(k) **Withdrawal of Grant.** – An award for a supplemental grant for a project is withdrawn if the applicant fails to enter into a construction contract for the project within one year after the date of the award for supplemental grants under subsection (e) of this section, unless the Board of Directors of the Rural Center finds that the applicant has good cause for the failure. If the Rural Center finds good cause for an applicant's failure, the Rural Center shall set a date by which the applicant must take action or forfeit the grant. Planning grants may be withdrawn if there is insufficient progress in meeting the scope of work within one year of the award date.

SECTION 13.8.(l) **Inspection of Project.** – The Rural Center may inspect a project as provided by this subsection:

- (1) **Authority.** – The Rural Center may inspect a project for which it awards a grant under this section to determine the progress made on the project and whether the construction of the project is consistent with the project described in the grant application. The inspection may be performed by personnel of the Rural Center or by a professional engineer licensed under Chapter 89C of the General Statutes.
- (2) **Disqualification.** – An individual may not perform an inspection of a project under this section if the individual meets any of the following criteria:
 - a. Is an officer or employee of the local government unit that received the grant award for the project.
 - b. Is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the construction of the project for which the grant was made.

SECTION 13.8.(m) Administration Costs. – The Rural Center may use a portion of the funds appropriated in this section for administration, not to exceed two percent (2%), for the life of the grant program created by this section.

SECTION 13.8.(n) Reporting Requirement. – The Rural Center shall report to the Joint Legislative Commission on Governmental Operations on a quarterly basis concerning the progress of the grant program created under this section. The first report is due no later than December 1, 2008.

SECTION 13.8.(o) Separate Accounts. – Each grant that is provided under this section shall be administered through a separate account.

SECTION 13.8.(p) Loans Prohibited. – The Rural Center shall not use the funds appropriated in this section to make loans.

RURAL ECONOMIC TRANSITION PROGRAM FUNDS

SECTION 13.9.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of four million dollars (\$4,000,000) for the 2008-2009 fiscal year shall be used to continue and expand the Rural Economic Transition Program for the following purposes:

- (1) To provide grants to local governments for building reuse and restoration projects leading to job or business creation, including brownfield assessment and remediation projects leading to productive reuse, with priority given to towns or communities with populations of less than 10,000.
- (2) To provide grants to support economic recovery and revitalization in small towns, with priority given to towns with populations less than 10,000 experiencing hardship posed by business losses, devastation from natural disasters, or persistent poverty.
- (3) To provide grants for innovative local and regional economic development and agriculture diversification projects that spur business activity, job creation, or public or private investment.

SECTION 13.9.(b) Priority for grant funds shall be given to eligible applicants in development tier one areas as defined in G.S. 143B-437.08.

SECTION 13.9.(c) The Rural Center may use a portion of the funds appropriated in this section, not to exceed two percent (2%), for administration of the programs for which funds are appropriated in this section.

SECTION 13.9.(d) The Rural Center may contract with other agencies and institutions for certain aspects of the programs for which funds are appropriated in this section, including the design of program guidelines and evaluation of program results.

SECTION 13.9.(e) The Rural Center shall report to the Joint Legislative Commission on Governmental Operations concerning the progress of the programs for which funds are appropriated in this section by July 1, 2009.

PART XIV. JUDICIAL DEPARTMENT

PILOT PROGRAM FOR ALTERNATIVE SCHEDULING

SECTION 14.1. Of the funds appropriated to the Office of Indigent Defense Services in this act, the Office of Indigent Defense Services may spend up to the sum of twenty-five thousand dollars (\$25,000) to support one or more pilot programs of alternative scheduling in district or superior court that would reduce defense attorney wait time and State expense. The establishment of any pilot program under this section

would require the prior agreement of the district attorney, chief district court judge, and senior resident superior court judge for the district.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION OF EXISTING PUBLIC DEFENDER OFFICES

SECTION 14.3.(a) Section 14.4(a) of S.L. 2007-323 reads as rewritten:

"**SECTION 14.4.(a)** The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred ninety-two thousand three hundred fifty dollars (\$2,192,350) in appropriated funds during the 2007-2008 fiscal year ~~and up to the sum of two million eighty-two thousand five hundred ten dollars (\$2,082,510) in appropriated funds during the 2008-2009 fiscal year~~ for the expansion of existing or new public defender offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services by creating up to 20 new attorney positions and 10 new support staff ~~positions.~~ positions during the 2007-2008 fiscal year. In addition, the Office of Indigent Defense Services may use up to the sum of two million three hundred thousand eight hundred fifty dollars (\$2,300,850) in appropriated funds during the 2008-2009 fiscal year to create up to 20 new attorney and 10 new support staff positions in existing offices during the 2008-2009 fiscal year. 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 of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion."

SECTION 14.3.(b) Section 14.4(c) of S.L. 2007-323 reads as rewritten:

"**SECTION 14.4.(c)** In addition to the new public defender offices established pursuant to subsection (b) of this section, the Office of Indigent Defense Services shall use funds from the Indigent Persons Attorney Fee Fund as follows:

- (1) Up to the sum of one million three hundred thirty-five thousand five hundred forty-three dollars (\$1,335,543) for the 2007-2008 fiscal year and up to the sum of ~~one million two hundred sixty-four thousand six hundred seventy-nine dollars (\$1,264,679)~~ one million two hundred ninety-five thousand sixty dollars (\$1,295,060) for the 2008-2009 fiscal year to establish Public Defender District 5 as provided for in subsection (d) of this section.
- (2) Up to the sum of seven hundred eighty-eight thousand two hundred sixty-four dollars (\$788,264) for the 2007-2008 fiscal year and up to the sum of ~~seven hundred forty-two thousand four hundred seventy-seven dollars (\$742,477)~~ seven hundred sixty-two thousand eight hundred thirty-seven dollars (\$762,837) for the 2008-2009 fiscal year to establish Public Defender District 29B as provided for in subsection (d) of this section."

REPEAL PUBLIC DEFENDER EXPANSION AUTHORITY

SECTION 14.4. Section 14.4(b) of S.L. 2007-323 is repealed.

JUDICIAL DEPARTMENT GRANT FUNDS

SECTION 14.5. Section 14.2 of S.L. 2007-323 reads as rewritten:

"**SECTION 14.2.(a)** Notwithstanding G.S. 143C-6-9, the Judicial Department may use up to the sum of one million five hundred thousand dollars (\$1,500,000) from funds available to the Department to provide the State match needed in order to receive grant

funds. ~~Prior~~ Except as provided in subsection (b) of this section, prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

"SECTION 14.2.(b) Of the sum of one million five hundred thousand dollars (\$1,500,000) authorized for grant funding under subsection (a) of this section, the Judicial Department may use the sum of eight hundred fifty-six thousand nine hundred seven dollars (\$856,907) for the 2008-2009 fiscal year to match block grant funding for 24 specific projects awarded by the Governor's Crime Commission as of June 20, 2008, without providing a prior report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations."

ADDITIONAL ASSISTANT DISTRICT ATTORNEYS

SECTION 14.6. 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	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	7 8
3A	Pitt	11
3B	Carteret, Craven, Pamlico	12
4	Duplin, Jones, Onslow, Sampson	18
5	New Hanover, Pender	17 18
6A	Halifax	5
6B	Bertie, Hertford, Northampton	6
7	Edgecombe, Nash, Wilson	18 19
8	Greene, Lenoir, Wayne	14
9	Franklin, Granville, Vance, Warren	12
9A	Person, Caswell	5 6
10	Wake	39 42
11	Harnett, Johnston, Lee	17 19
12	Cumberland	22 23
13	Bladen, Brunswick, Columbus	13
14	Durham	16 18
15A	Alamance	10 11
15B	Orange, Chatham	10
16A	Scotland, Hoke	6 7
16B	Robeson	13

17A	Rockingham	6 <u>7</u>
17B	Stokes, Surry	7 <u>8</u>
18	Guilford	31 <u>32</u>
19A	Cabarrus	9
19B	Montgomery, Randolph	9 <u>10</u>
19C	Rowan	7 <u>8</u>
19D	Moore	5
20A	Anson, Richmond, Stanly	11 <u>12</u>
20B	Union	9 <u>10</u>
21	Forsyth	24 <u>25</u>
22	Alexander, Davidson, Davie, Iredell	20
23	Alleghany, Ashe, Wilkes, Yadkin	8
24	Avery, Madison, Mitchell, Watauga, Yancey	7
25	Burke, Caldwell, Catawba	18 <u>19</u>
26	Mecklenburg	53 <u>58</u>
27A	Gaston	44 <u>15</u>
27B	Cleveland, Lincoln	10 <u>11</u>
28	Buncombe	13 <u>14</u>
29A	McDowell, Rutherford	7
29B	Henderson, Polk, Transylvania	8
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	11

FEASIBILITY STUDY ON PROVIDING THE OFFICE OF INDIGENT DEFENSE SERVICES WITH INDIGENT CASE INFORMATION WHEN CASES ARE INITIATED

SECTION 14.7. The Office of Indigent Defense Services and the Administrative Office of the Courts shall consult on developing a statewide system to enable the Office of Indigent Defense Services to obtain information about indigent cases when counsel is first appointed and shall develop a proposal for statewide implementation of such a system. A report on this proposal shall be included in the Office of Indigent Defense Services' annual report due March 1, 2009.

JCPC EFFECTIVENESS STUDY

SECTION 14.8.(a) The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission, shall conduct a feasibility study for measuring the effectiveness of programs that receive Juvenile Crime Prevention Council (JCPC) grant funds. All State agencies and community-based programs that receive JCPC funding shall provide data as requested by the Commission.

The Sentencing and Policy Advisory Commission shall provide an interim report on the results of the feasibility study 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 by December 1, 2008. The final plan for measuring the effectiveness of JCPC programs shall be provided to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2009.

SECTION 14.8.(b) G.S. 143B-519 is repealed.

LEGAL ASSISTANCE TO HOMEOWNERS

SECTION 14.9. G.S. 7A-474.3(b) reads as rewritten:

"(b) Eligible Cases. – Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

- (1) Family violence or spouse abuse;
- (2) Assistance for the disabled in obtaining federal Social Security benefits;
- (2a) Assistance for eligible clients in obtaining benefits or assistance under any federal law or program providing benefits or assistance for human trafficking victims;
- (3) Representation of eligible farmers faced with the potential of farm foreclosure;
- (4) Representation of eligible clients over the age of 60 regarding the following matters:
 - a. Wills and estates;
 - b. Safe and sanitary housing;
 - c. Pensions and retirement rights;
 - d. Social Security and Medicare rights;
 - e. Access to health care;
 - f. Food and nutrition; and
 - g. Transportation.
- (5) Representation of eligible clients designed to enable them to obtain the necessary skills and means to obtain meaningful employment at a decent wage and reduce the public welfare rolls; and
- (6) Representation of eligible clients under the age of 21 or eligible families with legal problems affecting persons under the age of 21 regarding the following matters:
 - a. Financial support and custody of children;
 - b. Child care;
 - c. Child abuse or neglect;
 - d. Safe and sanitary housing;
 - e. Food and nutrition; and
 - f. Access to health care.
- (7) Legal assistance to consumers in cases involving predatory mortgage lending, mortgage broker and loan services abuses, foreclosure defense, and other legal issues that relate to helping consumers avoid foreclosure and home loss."

ADDITIONAL DISTRICT COURT JUDGES

SECTION 14.13.(a) G.S. 7A-133(a) 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	6	Craven Pamlico Carteret
4	8	Sampson Duplin Jones Onslow
5	9	New Hanover Pender
6A	3	Halifax
6B	3	Northampton Bertie Hertford
7	7	Nash Edgecombe Wilson
8	6	Wayne Greene Lenoir
9	4	Granville (part of Vance see subsection (b))
9A	2	Franklin Person Caswell
9B	2	Warren (part of Vance see subsection(b))
10	18 <u>19</u>	Wake
11	10 <u>11</u>	Harnett Johnston Lee

12	10	Cumberland
13	6	Bladen
		Brunswick
		Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	3	Rockingham
17B	4	Stokes
		Surry
18	14	Guilford
19A	4	Cabarrus
19B	7	Montgomery
		Moore
		Randolph
19C	5	Rowan
20A	4	Stanly
		Anson
		Richmond
20B	1	(part of Union see subsection(b))
20C	2	(part of Union see subsection(b))
20D	1	Union
21	10	Forsyth
22A	5	Alexander
		Iredell
22B	6	Davidson
		Davie
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	9	Burke
		Caldwell
		Catawba
26	20 <u>21</u>	Mecklenburg
27A	7	Gaston
27B	5	Cleveland
		Lincoln

28	7	Buncombe
29A	3	McDowell
		Rutherford
29B	4	Henderson
		Polk
		Transylvania
30	6	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

SECTION 14.13.(b) The Governor shall appoint the additional district court judges for Districts 10, 11, and 26 authorized by subsection (a) of this section, and those judges' successors shall be elected in the 2010 election for four-year terms commencing January 1, 2011.

SECTION 14.13.(c) As to District 11, subsection (a) of this section becomes effective January 15, 2009, or 15 days after preclearance under section 5 of the Voting Rights Act of 1965, whichever is later. The remainder of this section becomes effective January 15, 2009.

PROBATION OFFICER ACCESS TO AUTOMATED COURT INFORMATION SYSTEM

SECTION 14.15. The Administrative Office of the Courts shall use up to the sum of one hundred thousand dollars (\$100,000) from the Court Information Technology Fund established in G.S. 7A-343.2 to develop an interface between the case management functions of the Offender Population Unified System (OPUS) of the Department of Correction and the Automated Court Information System, in order to provide probation parole officers with access to the most recent information on arrests and pending charges against probationers.

PART XV. DEPARTMENT OF JUSTICE

USE OF GRANT FUNDS OR OTHER RECEIPT FUNDS FOR REPLACEMENT LABORATORY EQUIPMENT AND FORENSIC FIREARMS ANALYST START-UP COSTS

SECTION 15.2. The Department of Justice is authorized to use up to one hundred forty thousand dollars (\$140,000) of grant funding or other receipt funds available to purchase replacement laboratory equipment and for start-up costs associated with the forensic firearms analyst positions approved in this act. Notwithstanding Section 15.3 of S.L. 2007-323, the Department is not required to seek prior approval to use these funds for the purposes described in this section.

PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

JCPC GRANT REPORTING AND CERTIFICATION

SECTION 16.1.(a) Section 18.2(a) of S.L. 2007-323 reads as rewritten:

"**SECTION 18.2.(a)** On or before ~~April 1~~ October 1 of each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council ~~grants. The list shall include for each recipient grants,~~ including:

- (1) ~~the~~ The amount of the grant awarded, ~~awarded.~~
- (2) ~~the~~ The membership of the local committee or council administering the award funds on the local level, ~~and level.~~
- (3) The type of program funded.
- (4) a ~~A~~ short description of the local services, programs, or projects that will receive funds. ~~funds.~~
- (5) ~~The list shall also identify~~ Identification of any programs that received grant funds at one time but for which funding has been eliminated by the ~~Department of Juvenile Justice and Delinquency Prevention.~~ Department.
- (6) The number of at-risk, diverted, and adjudicated juveniles served by county.
- (7) The Department's actions to ensure that county JCPC's prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.
- (8) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly."

SECTION 16.1.(b) Section 18.2(d) of S.L. 2007-323 is repealed.

SUPPORT OUR STUDENTS (SOS) GRANT ELIGIBILITY

SECTION 16.2. G.S. 143B-152.4(a) reads as rewritten:

- "(a) ~~A~~ Any of the following may apply for a grant:
- (1) ~~A community- or neighborhood-based 501(c)(3) entity or a consortium consisting of one or more local 501(c)(3) entities and one or more local school administrative units may apply for a grant.~~ entity.
 - (2) A community-based, public or private nonprofit, tax exempt organization.
 - (3) A school system.
 - (4) A local government agency."

JUVENILE CRIME PREVENTION COUNCILS (JCPC) FORMULA REVISION

SECTION 16.3. The Department of Juvenile Justice and Delinquency Prevention, the NC Juvenile Services Association, and the Community Alternatives for Youth, in consultation with the Fiscal Research Division, shall develop and propose a revision to the county allocation formula for Juvenile Crime Prevention Councils. The Department shall report the recommendations 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

Subcommittees on Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by December 1, 2008.

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 16.4. Section 18.5 of S.L. 2007-323 reads as rewritten:

"**SECTION 18.5.** Funds appropriated in this act from the General Fund to the Department of Juvenile Justice and Delinquency Prevention for the ~~2007-2008 fiscal year~~ 2008-2009 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 House of Representatives and Senate 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 ~~2007-2008 fiscal year~~, 2008-2009 fiscal year, the amount of funds anticipated for the ~~2008-2009 fiscal year~~, 2009-2010 fiscal year, and the allocation of funds by program and purpose."

PART XVII. DEPARTMENT OF CORRECTION

TEMPORARY HOUSING FUNDS

SECTION 17.1.(a) The Department of Correction may use funds available during the 2008-2009 fiscal year to secure appropriate temporary housing for offenders on post-release supervision, probation, or parole who do not have a viable residence plan and are at risk of being homeless. The Department may use available funds to secure housing for post-release supervisees, probationers, and parolees in a transitional housing shelter, halfway house, or other community-based residential facility that provides housing for offenders. The Department shall not expend funds to secure housing for post-release supervisees, probationers, and parolees in a hotel, motel, nursing home, adult care facility, group home containing the physically or developmentally disabled, or residential facility where minors are housed.

SECTION 17.1.(b) The Department may not use available funds as authorized by this section to provide housing for any offender for a continuous period exceeding 30 days.

SECTION 17.1.(c) The Department of Correction shall evaluate the most effective means to provide temporary housing for offenders on post-release supervision, probation, or parole who do not have a viable residence plan and are at risk of being homeless. The evaluation shall include a review of practices in other states, an evaluation of the feasibility of contracting with community-based facilities to provide housing, and an assessment of the feasibility of establishing a central facility or facilities to house offenders on post-release supervision, probation, or parole. The Department shall report its findings to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by January 1, 2009.

FEDERAL GRANT MATCHING FUNDS

SECTION 17.2. Section 17.12 of S.L. 2007-323 reads as rewritten:

"**SECTION 17.12.** Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2007-2008 fiscal year and up to the sum of one million five hundred thousand dollars (\$1,500,000) during the 2008-2009 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 House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds."

RESERVE FUND FOR PROBATION AND PAROLE STAFFING AND RESOURCES

SECTION 17.3. Of the funds appropriated in this act to the Department of Correction, a reserve fund of two million five hundred thousand dollars (\$2,500,000) is established in the Office of State Budget and Management to address critical staffing and resource needs in Probation and Parole Field Services, Department of Correction. The designation of these funds is pending the outcome of a National Institute of Corrections review. The sum of five hundred thousand dollars (\$500,000) in nonrecurring funds in the reserve shall not revert at the end of the fiscal year but shall remain available to the Department for the purposes identified in the NIC review.

Prior to using any funds from the reserve authorized by this section, the Department of Correction shall consult with the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the proposed use of the funds and the reasons for the proposal. The consultation shall include a report on the Department's proposed policies and procedures for maximizing the efficiency of the probation violation staffing process.

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 17.4. Section 17.16 of S.L. 2007-323 reads as rewritten:

"**SECTION 17.16.(a)** The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, ~~and Probation Parole Officer III positions;~~ III, and Chief Probation Parole Officer positions;
- (2) An analysis of the optimal caseloads for these officer classifications;
- (3) An assessment of the role of surveillance officers;
- (4) The number and role of paraprofessionals in supervising low-risk caseloads;
- (5) An update on the Department's implementation of the recommendations contained in the National Institute of Correction study conducted on the Division of Community Corrections in 2004;
- (6) ~~The selection of a risk assessment and the resulting distribution of offenders among risk levels;~~ The process of assigning offenders to an appropriate supervision level based on a risk assessment and an

examination of other existing resources for assessment and case planning, including the Sentencing Services Program in the Office of Indigent Defense Services, and the range of screening and assessment services provided by the Division of Mental Health, Developmental Disability, and Substance Abuse Services in the Department of Health and Human Services; and

- (7) Any position reallocations in the previous 12 months, and the reasons for and fiscal impact of those reallocations.

"SECTION 17.16.(b) The Department of Correction shall conduct a study of probation/parole officer workload at least biannually. The study shall include analysis of the type of offenders supervised, the distribution of the probation/parole officers' time by type of activity, the caseload carried by the officers, and comparisons to practices in other states. The study shall be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised and the time required to supervise those offenders.

"SECTION 17.16.(c) The Department of Correction shall report the results of the study and recommendations for any adjustments to caseload goals to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by January 1, 2009.

"SECTION 17.16.(d) The Office of State Personnel, in conjunction with the Department of Correction, shall conduct a compensation study of probation parole officers, including the identification and assessment of relevant labor market comparisons for which:

- (1) The job duties are similar;
- (2) The education and experience requirements are similar; and
- (3) The labor markets are representative of markets that typically seek to draw qualified applicants from similar backgrounds.

The Office of State Personnel shall report the results of the study and recommendations for any adjustments to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2009."

CRIMINAL JUSTICE PARTNERSHIP/NOTIFICATION OF AMOUNT OF FORMULA FUNDING/SCHEDULE FOR APPLICATION TO RECEIVE REALLOCATION OF UNOBLIGATED FUNDS

SECTION 17.7.(a) G.S. 143B-273.15 reads as rewritten:

"§ 143B-273.15. Funding formula.

(a) To determine the grant amount for which a county or counties may apply, the granting authority shall apply the following formula:

- (1) Twenty-five percent (25%) based on a fixed equal dollar amount for each county;
- (2) Fifty percent (50%) based on the county share of the State population; and
- (3) Twenty-five percent (25%) based on the intermediate punishment entry rate for the county, using the total of the three most recent years of data available divided by the average county population for that same period.

The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the funding that a county may apply for under this subsection.

Grants to participating counties are for a period of one fiscal year with unobligated funds being returned to the Account at the end of the grant period. Funds are provided to participating counties on a reimbursement basis unless a county documents a need for an advance of grant funds. The data used for this funding formula shall be updated at least once every three years.

(b) Each year that the Department of Correction updates the data for the funding formula pursuant to subsection (a) of this section, the Department of Correction shall send a written notification by January 15 to each program participating in the State-County Criminal Justice Partnership of the amount of the grant that the program will receive pursuant to the revised formula for the fiscal year beginning July 1 of that year subject to funds being appropriated by the General Assembly."

SECTION 17.7.(b) Article 6A of Chapter 143B of the General Statutes is amended by adding the following:

"§ 143B-273.15A. Reallocation of unspent or unclaimed funds.

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 in an effort to maintain the level of services realized in previous fiscal years. A program may apply for a grant from the reallocated funds at least semiannually beginning July 1 of each year."

PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

GOVERNOR'S CRIME COMMISSION STUDY/EXPAND JUVENILE JURISDICTION

SECTION 18.1.(a) The Governor's Crime Commission and its adjunct committees shall study the legal, systematic, and organizational impact of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include persons 16 and 17 years of age who commit crimes or infractions under State law or under an ordinance of local government. In particular, the Commission shall perform the following functions regarding the proposed expansion of the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include 16- and 17-year-olds who commit crimes or infractions under State or local law:

- (1) Identify the costs to the State court system and State and local law enforcement.
- (2) Review the relevant State laws that should be conformed or amended, including, but not limited to, the motor vehicle and criminal laws, the laws regarding expunction of criminal records, and other juvenile laws.
- (3) Review the experience of any other states which have within recent years expanded the juvenile justice jurisdiction to 16- and 17-year-olds.
- (4) Identify the practical issues for the Department of Juvenile Justice and Delinquency Prevention to implement best practices for programs and facilities that would meet the unique needs of the older youth under the proposal without adversely affecting the existing departmental programming.
- (5) Review the relevant State laws on sharing of juvenile information with other State departments and agencies.

- (6) Create a specific plan of the actions that are necessary to implement the expansion of the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (7) Determine the total cost of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (8) Conduct a cost benefit analysis of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention with specific information on possible future fiscal savings anywhere within State government as a result of expenditures necessary to implement the expansion.
- (9) Determine whether federal or other funds are available to aid in the transition and expansion, or both, of the age of juvenile jurisdiction to 16- and 17-year-olds.

SECTION 18.1.(b) The Commission may contract with an independent group or groups for the oversight and management of this study project, a service needs study, and a courts study, and to periodically report those findings to the Commission.

SECTION 18.1.(c) The Department of Juvenile Justice and Delinquency Prevention and all other departments, agencies, institutions, or officers of the State or any political subdivision of the State, shall cooperate with the Commission in this study, shall provide the Commission with any requested facilities, data, or other assistance, and help the Commission identify any collateral effect which might result from implementation of the proposal on the program and operations of the relevant State department, agency, or the political subdivision.

SECTION 18.1.(d) The Commission shall submit a report of its findings and legislative, administrative, and funding recommendations by April 1, 2009, to the General Assembly and the Governor.

In addition to its final report, the Commission shall report in writing on the progress of this study on a quarterly basis beginning on October 1, 2008, and by the first day of every quarter thereafter until the Commission submits its final report to the General Assembly, to the chairs and cochairs, as applicable, of the standing committees or subcommittees of the General Assembly listed in subsections (e) and (f) of this section. A copy of each progress report made to the standing committee and subcommittee chairs shall also be filed in the Legislative Library.

SECTION 18.1.(e) The Commission shall report to all of the following standing committees or subcommittees in the House of Representatives pursuant to this section:

- (1) Appropriations: Justice and Public Safety.
- (2) Children, Youth, and Families.
- (3) Education: Preschool, Elementary, and Secondary Education.
- (4) Juvenile Justice.
- (5) All of the Judiciary Committees.

SECTION 18.1.(f) The Commission shall report to all of the following standing committees or subcommittees in the Senate pursuant to this section:

- (1) Appropriations: Justice and Public Safety.
- (2) Education and Higher Education.
- (3) All of the Judiciary Committees.

SECTION 18.1.(g) Of the funds appropriated by this act to the Department of Crime Control and Public Safety, the Governor's Crime Commission for the 2008-2009 fiscal year, the Commission may use up to two hundred thousand dollars

(\$200,000) to conduct the study authorized by this section. The Commission may also apply for, receive, or accept grants and contributions from any source of money or any other thing of value to be held and used for the purposes of the study authorized by this section.

ENHANCE RAPE VICTIMS ASSISTANCE PROGRAM

SECTION 18.2.(a) G.S. 143B-480.2 reads as rewritten:

"§ 143B-480.2. Victim assistance.

(a) Eligibility for Assistance. – Sexual assault victims or victims of attempted sexual assault are eligible for assistance under this Program if the sexual assault or the attempted sexual assault is reported to a law enforcement officer within ~~five days~~72 hours of the occurrence of the assault or the attempted sexual assault and if a forensic medical examination is performed within ~~five days~~72 hours of the sexual assault or the attempted sexual assault. The Secretary may waive either ~~five day~~72-hour requirement for good cause. The term "sexual assault" as used in this section refers to the following crimes: first-degree rape as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, first-degree sexual offense as defined in G.S. 14-27.4, second-degree sexual offense as defined in G.S. 14-27.5, or statutory rape as defined in G.S. 14-27.7A.

(b) Eligible Expenses. – Assistance is limited to the following expenses incurred by the victim:

- (1) Immediate and short-term medical expenses.
- (2) Ambulance services from the place of the attack to a place where medical treatment is provided.
- (3) Mental health services provided by a professional licensed or certified by the State to provide such services.
- (4) A forensic medical examination. As used in this section, the term "forensic medical examination" means an examination provided to a sexual assault victim eligible for assistance under subsection (a) of this section by medical ~~medical~~ personnel who gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include an examination of physical trauma, a patient interview, and a collection and evaluation of evidence.
- (5) Counseling treatment following the attack.

(c) Amount of Assistance. – The Program shall pay for the ~~full out-of-pocket~~ cost of the victim's forensic medical ~~examination~~examination up to eight hundred dollars (\$800.00). Specifically, the Program shall pay amounts for services in accordance with the following schedule:

<u>Service:</u>	<u>Maximum Amount Paid by Program:</u>
<u>Physician or SANE Nurse</u>	<u>\$350.00</u>
<u>Hospital/Facility Fee</u>	<u>\$250.00</u>
<u>Ambulance Fee</u>	<u>\$200.00</u>
 <u>Total:</u>	 <u>\$800.00</u>

The Program shall pay for all other eligible expenses set out in subsection (b) of this section in an amount not to exceed the difference between the ~~full out-of-pocket~~ cost of the forensic medical examination and one thousand dollars (\$1,000). ~~If the full out-of-pocket cost for the forensic medical examination costs more than one thousand~~

dollars (\$1,000), then the Program shall pay only for the full out of pocket cost of the forensic medical examination. Assistance not to exceed fifty dollars (\$50.00) shall be provided to victims to replace clothing that was held for evidence tests.

(d) ~~Payment Directly to Provider. – With the exception of assistance authorized under subsection (f) of this section, assistance for expenses authorized under this section is to be paid directly to any hospital, ambulance service, attending physicians, or mental health professionals providing counseling, upon the filing of proper forms. Payment for the full out of pocket cost of the forensic medical examination shall be paid to the provider no later than 90 days after receiving the required written notification of the victim's expense. If the entity seeking payment for expenses authorized under this section is a hospital, ambulance service, or mental health professional providing counseling, the Program shall make payment directly to that entity upon the filing of proper forms. If the entity seeking payment for expenses authorized under this section is an attending physician or licensed registered nurse, the Program shall make payment to a hospital, which shall then pay the entity seeking payment. Attending physicians and licensed registered nurses shall not bill or otherwise seek payment directly from the Program, but shall instead seek payment from the hospital that accepted payment on the entity's behalf. No payment for the cost of the forensic medical examination shall be made under this subsection unless the recipient agrees in writing that receipt of that payment shall constitute payment in full for the amount owed for the cost of the examination and expenses related to the examination.~~

(e) ~~Judicial Review. – Upon an adverse determination by the Secretary on a claim for medical expenses, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.~~

(f) ~~Examinations by Licensed Registered Nurse. – If the forensic medical examination is conducted by a licensed registered nurse who has successfully completed a program approved under G.S. 90-171.38(b), payment for the full out of pocket cost of the forensic medical examination may be made directly to the licensed registered nurse in lieu of any payment which may otherwise have been made under subsection (d) of this section. Payment for the full out of pocket costs of a forensic medical examination under this subsection shall be paid no later than 90 days after receiving the required written notification of the victim's expense. The Secretary shall adopt rules to facilitate the payments authorized under this subsection and to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures."~~

SECTION 18.2.(b) G.S. 143B-480.3 reads as rewritten:

"§ 143B-480.3. Reduction of benefits; restitution; actions.

(a) Assistance shall be reduced or denied to the extent the medical expenses are recouped through a public or private insurance plan or other victim benefit ~~source~~. source, except that the Program shall pay any co-payment that the victim is required to pay in connection with the forensic medical examination up to the maximum amount that the Program will pay for a forensic medical exam under G.S. 143B-480.2(c).

(b) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(c) When any victim who:

(1) Has received assistance under this Part;

- (2) Brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and
- (3) Recovers damages including the expenses for which she was awarded assistance,

the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery.

(d) Funds appropriated to the Department of Crime Control and Public Safety for this program may be used to purchase and distribute rape evidence collection kits approved by the State Bureau of Investigation."

SECTION 18.2.(c) Of the funds appropriated by this act to the Department of Crime Control and Public Safety for the 2008-2009 fiscal year, the sum of one million seventy-eight thousand seventy-eight dollars (\$1,078,078) may be used to enhance the ability of the Assistance Program for Victims of Rape and Sex Offenses to provide assistance to victims of rape and sexual offenses.

REPORT ON THE USE OF ILLEGAL IMMIGRATION PROJECT FUNDS

SECTION 18.3. No later than March 1, 2009, the North Carolina Sheriffs' Association shall submit a report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the operations and effectiveness of the Illegal Immigration Project. The report shall include all of the following:

- (1) An overview of the program.
- (2) The program budget.
- (3) A summary of work done with funds received, which shall include the following information:
 - a. The total number of law enforcement agencies that received funding from the program for officer training.
 - b. The total number of officers trained.
 - c. The total number of training sessions administered.
 - d. Copies of educational/informational materials distributed.
- (4) Recommendations on ways that federal, State, and local resources can be used to further improve the effectiveness of the Illegal Immigration Project and other immigration enforcement initiatives.

PART XIX. DEPARTMENT OF ADMINISTRATION

SEXUAL ASSAULT AND RAPE CRISIS CENTER FUND

SECTION 19.1. Article 11 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 3B. Sexual Assault and Rape Crisis Center Fund.

"§ 143B-480.20. Sexual Assault and Rape Crisis Center Fund.

(a) The Sexual Assault and Rape Crisis Center Fund is established within the State Treasury. The fund shall be administered by the Department of Administration, North Carolina Council for Women, and shall be used to make grants to centers for victims of sexual assault or rape crisis and to the North Carolina Coalition Against Sexual Assault, Inc. This fund shall be administered in accordance with the provisions of the State Budget Act under Chapter 143C of the General Statutes. The Department of

Administration shall make quarterly grants to each eligible sexual assault or rape crisis center and to the North Carolina Coalition Against Sexual Assault, Inc. To be eligible to receive funds under this section, a sexual assault or rape crisis center shall meet the following requirements:

- (1) Have been in operation on the preceding July 1 and continue to be in operation.
- (2) Offer all of the following services: a hotline, transportation services, community education programs, daytime services, and call forwarding during the night; and fulfill other criteria established by the Department of Administration.
- (3) Be a nonprofit corporation or a local governmental entity.
- (4) Have a mission statement that clearly specifies rape crisis services are provided.
- (5) Act in support of victims of rape or sexual assault by providing assistance to ensure victims' interests are represented in law enforcement and legal proceedings and support and referral services are provided in medical and community settings.

(b) Funds appropriated from the General Fund to the Department of Administration, North Carolina Council for Women, for the Sexual Assault and Rape Crisis Center Fund shall be distributed in two shares. The North Carolina Coalition Against Sexual Assault, Inc., and sexual assault or rape crisis centers whose services are confined to rape crisis or sexual assault services shall receive an equal share of thirty-five percent (35%) of the funds. Organizations whose services contain sexual assault or rape crisis services and domestic violence services or other support services shall receive an equal share of the remaining sixty-five percent (65%) of the funds."

SCHOLARSHIPS FOR CHILDREN OF WAR VETERANS

SECTION 19.2.(a) G.S. 165-21 reads as rewritten:

"§ 165-21. Scholarship.

(a) A scholarship granted pursuant to this Article shall consist of the following benefits in either a State or private educational institution:

- (1) With respect to State educational institutions, unless expressly limited elsewhere in this Article, a scholarship shall consist of:
 - a. ~~Tuition,~~ Tuition at the State educational institution.
 - b. ~~A reasonable-standard board allowance,~~ allowance.
 - c. ~~A reasonable-standard room allowance,~~ allowance.
 - d. Matriculation and other institutional fees required to be paid as a condition to remaining in ~~said-the~~ institution and pursuing the course of study ~~selected, excluding charges or fees for books, supplies, tools and clothing.~~ selected.
- (2) With respect to private educational institutions, a scholarship shall consist of a monetary allowance as prescribed in G.S. 165-22.1(d).
- (3) Only one scholarship may be granted pursuant to this Article with respect to each child and it shall not extend for a longer period than four academic years, which years, however, need not be consecutive.
- (4) No educational assistance shall be afforded a child under this Article after the end of an eight-year period beginning on the date the scholarship is first awarded. Those persons who have been granted a scholarship under this Article prior to the effective date of this act shall

be entitled to the remainder of their period of scholarship eligibility if used prior to August 1, 2010. Whenever a child is enrolled in an educational institution and the period of entitlement ends while enrolled in a term, quarter or semester, such period shall be extended to the end of such term, quarter or semester, but not beyond the entitlement limitation of four academic years.

(5) A scholarship awarded to a student under this section shall not exceed the cost of attendance at the State educational institution at which the student is enrolled. If a student, who is eligible for a scholarship under this section, also receives a scholarship or other grant covering the cost of attendance at the State educational institution for which the scholarship is awarded, then the amount of the scholarship shall be reduced by an appropriate amount determined by the State educational institution at which the student is enrolled. The scholarship shall be reduced so that the sum of all grants and scholarship aid covering the cost of attendance received by the student, including the scholarship under this section, shall not exceed the cost of attendance for the State educational institution at which the student is enrolled.

(b) Repealed by Session Laws 2002-126, s. 19.3(b), effective November 1, 2002.

(c) If a child is awarded a scholarship under this Article, the Commission shall notify the recipient by May 1st of the year in which the recipient enrolls in college."

SECTION 19.2.(b) G.S. 165-20(6) reads as rewritten:

"(6) "State educational institution" means any constituent institution of The University of North Carolina, educational institution of higher learning which is owned and operated by the State of North Carolina, or any community college operated under the provisions of Chapter 115A and Article 3 of Chapter 116 of the General Statutes of North Carolina, or the college program of the North Carolina School of the Arts, or any technical institute operated under the provisions of Chapter 115A of the Chapter 115D of the General Statutes of North Carolina."

PART XIXA. CULTURAL RESOURCES

BENTONVILLE BATTLEFIELD FUND

SECTION 19A.1. Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"§ 121-7.5. Bentonville Battlefield Fund.

(a) Fund. – The Bentonville Battlefield Fund is created as a special fund in the Department of Cultural Resources, Division of State Historic Sites. The interest earned by the Fund shall be credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Fund shall be used for operation, interpretation, maintenance, preservation, development, and expansion at Bentonville Battlefield State Historic Site.

(b) Disposition of Fees. – Notwithstanding Chapter 146 of the General Statutes, all receipts derived from donations or the lease, rental, or other disposition of structures or products of the land owned by or under the supervision or control of the Division of Historic Sites in Johnston County shall be credited to the Fund.

(c) The monies credited to this Fund pursuant to this section are annually appropriated to the Department of Cultural Resources."

ESTABLISH AFRICAN-AMERICAN HERITAGE COMMISSION

SECTION 19A.2. Article 2 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 30. African-American Heritage Commission.

"§ 143B-135. Commission established.

(a) Creation and Duties. – There is created the African-American Heritage Commission in the Department of Cultural Resources to advise and assist the Secretary of Cultural Resources in the preservation, interpretation, and promotion of African-American history, arts, and culture. The Commission shall have the following powers and duties:

- (1) To advise the Secretary of Cultural Resources on methods and means of preserving African-American history, arts, and culture.
- (2) To promote public awareness of historic buildings, sites, structures, artwork, and culture associated with North Carolina's African-American heritage through special programs, exhibits, and publications.
- (3) To support African-American heritage education in elementary and secondary schools in coordination with North Carolina Public Schools.
- (4) To build a statewide network of individuals and groups interested in the preservation of African-American history, arts, and culture.
- (5) To develop a program to catalog, preserve, assess, and interpret all aspects of African-American history, arts, and culture.
- (6) To advise the Secretary of Cultural Resources upon any matter the Secretary may refer to it.

(b) Composition and Terms. – The Commission shall consist of 10 members who shall serve staggered terms. The initial board shall be selected on or before October 1, 2008, as follows:

- (1) Four appointed by the Governor, two of whom shall serve terms of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year. At least one appointee shall be a member of the North Carolina Historical Commission.
- (2) Three appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall serve a term of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year.
- (3) Three appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall serve a term of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year.

Upon the expiration of the terms of the initial Commission members, each member shall be appointed for a three-year term and shall serve until a successor is appointed.

(c) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms 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 Commission may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary

proceedings shall be disqualified from participating in the official business of the Commission until the charges have been resolved.

(e) Officers. – The chair shall be designated by the Governor from among the members of the Commission to serve as chair at the pleasure of the Governor. The Commission shall elect annually from its membership a vice-chair and other officers deemed necessary by the Commission to carry out the purposes of this Article.

(f) Meetings; Quorum. – The Commission shall meet at least semiannually to conduct business. The Board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of Commission members shall constitute a quorum.

(g) Compensation. – The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable."

CARTWHEELS PROGRAM

SECTION 19A.3.(a) Of the funds appropriated in the 2008-2009 fiscal year to the North Carolina Arts Council to administer the cARTwheels Program, grants shall be based on a competitive application process and may be awarded to previous grantees. The competitive application process shall include criteria that awards at least twenty-five percent (25%) but no more than fifty percent (50%) of total grant funds to professional performing arts groups that have not received grants from the cARTwheels Program. The competitive application process shall emphasize geographic distribution, ethnic diversity, and variety of programs, such as dance, opera, music, and theatre.

SECTION 19A.3.(b) The Department of Cultural Resources shall report on the cARTwheels Program to the Joint Legislative Commission on Governmental Operations by September 1, 2008. The report shall include the following:

- (1) A detailed summary of the competitive application process used to select the professional performing arts groups for the 2008-2009 fiscal year.
- (2) A list of professional performing arts groups that submitted applications for the 2008-2009 fiscal year.
- (3) The allocation of the funding appropriated in the 2008-2009 fiscal year to the professional performing arts groups selected.
- (4) The schedule of performances for the 2008-2009 fiscal year.

PART XX. OFFICE OF THE STATE CONTROLLER

BEACON STAFF TO SUPPORT STATEWIDE ENTERPRISE TRAINING PROGRAM

SECTION 20.1. The Office of the State Controller shall use existing BEACON receipts to establish eight full-time time-limited positions to support the statewide enterprise training program as follows:

- (1) \$80,375 nonrecurring in fiscal year 2008-2009 for one SAP/NCAS Training Technology Specialist.
- (2) \$141,500 nonrecurring in fiscal year 2008-2009 for two SAP/NCAS Staff Development Specialists.
- (3) \$353,750 nonrecurring in fiscal year 2008-2009 for five SAP/NCAS Trainers.

PART XXI. HOUSING FINANCE AGENCY

HOUSING FINANCE AGENCY SHALL CONTINUE AND EXPAND THE HOME PROTECTION PROGRAM

SECTION 21.1.(a) G.S. 122A-3 reads as rewritten:

"§ 122A-3. Definitions.

~~The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:~~ The following definitions apply in this section:

- (1) ~~"Bonds" or "notes" mean the bonds or the bond anticipation notes or construction loan notes authorized to be issued by the Agency under this Chapter;~~
- (2) ~~"Agency" means the North Carolina Housing Finance Agency created by this Chapter;~~
- (3) ~~Repealed by Session Laws 1973, c. 1296, s. 5;~~
- (4) ~~Repealed by Session Laws 1973, c. 1296, s. 6;~~
- (5) ~~"Governmental agency" means any department, division, public agency, political subdivision or other public instrumentality of the State, the federal government, any other State or public agency, or any two or more thereof;~~
- (6) ~~Repealed by Session Laws 1973, c. 1296, s. 8;~~
- (7) ~~Repealed by Session Laws 1973, c. 1296, s. 9;~~
- (8) ~~"Mortgage" or "mortgage loan" means a mortgage loan for residential housing, including, without limitation, a mortgage loan to finance, either temporarily or permanently, the construction, rehabilitation, improvement, or acquisition and rehabilitation or improvement of residential housing and a mortgage loan insured or guaranteed by the United States or an instrumentality thereof or for which there is a commitment by the United States or an instrumentality thereof to insure such a mortgage;~~
- (9) ~~Repealed by Session Laws 1973, c. 1296, s. 11;~~
- (10) ~~"Obligations" means any bonds or bond anticipation notes authorized to be issued by the Agency under the provisions of this Chapter;~~
- (11) ~~"Persons and families of lower income" means persons and families deemed by the Agency to require such assistance as is made available by this Chapter on account of insufficient personal or family income, taking into consideration, without limitation, (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the family, (iii) the cost and condition of housing facilities available, (iv) the eligibility of such persons and families for federal housing assistance of any type predicated upon a lower income basis and (v) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing and deemed by the Agency therefore to be eligible to occupy residential housing financed wholly or in part, with mortgages, or with other public or private assistance;~~
- (12) ~~"Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons~~

- and families of lower income, including the rehabilitation of buildings and improvements, and such other nonhousing facilities as may be incidental or appurtenant thereto;
- (13) "State" means the State of North Carolina;
- (14) "~~Federally insured securities~~" means ~~an evidence of indebtedness secured by a first mortgage lien on residential housing for persons of lower income and insured or guaranteed as to repayment of principal and interest by the United States or any agency or instrumentality thereof; and~~
- (15) "~~Mortgage lenders~~" means ~~any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association, life insurance company, mortgage banking company, the federal government and any other financial institution authorized to transact business in the State;~~
- (16) "~~Energy conservation loan~~" means ~~a loan obtained from a mortgage lender for the purpose of satisfying an existing obligation of a borrower who is the resident owner of a single family dwelling or of "residential housing." The existing obligation of the owner in an "energy conservation loan" must have been incurred to pay for the purchase of materials or the installation of materials, or both, which results in a significant decrease in the amount of consumption of nonrenewable sources of energy in order to provide or maintain a comfortable level of room temperatures in his residence during the winter. "Energy conservation loan" does not include a loan obtained to refinance an existing loan agreement unless payment or collection of the original loan was guaranteed by the agency.~~
- (17) "~~Rehabilitation~~" means ~~the renovation or improvement of residential housing by the owner of said residential housing.~~
- (1) Agency. – The North Carolina Housing Finance Agency created by this Chapter.
- (2) Bonds or notes. – The bonds or the bond anticipation notes or construction loan notes authorized to be issued by the Agency under this Chapter.
- (3) Counseling agency. – A nonprofit counseling agency located in North Carolina that is approved by the North Carolina Housing Finance Agency.
- (4) Energy conservation loan. – A loan obtained from a mortgage lender for the purpose of satisfying an existing obligation of a borrower who is the resident owner of a single-family dwelling or of "residential housing." The existing obligation of the owner in an "energy conservation loan" must have been incurred to pay for the purchase of materials or the installation of materials, or both, which results in a significant decrease in the amount of consumption of nonrenewable sources of energy in order to provide or maintain a comfortable level of room temperatures in his residence during the winter. "Energy conservation loan" does not include a loan obtained to refinance an existing loan agreement unless payment or collection of the original loan was guaranteed by the Agency.

- (5) Federally insured securities. – An evidence of indebtedness secured by a first mortgage lien on residential housing for persons of lower income and insured or guaranteed as to repayment of principal and interest by the United States or any agency or instrumentality thereof.
- (6) Governmental agency. – Any department, division, public agency, political subdivision, or other public instrumentality of the State, the federal government, any other State or public agency, or any two or more thereof.
- (7) Mortgage or mortgage loan. – A mortgage loan for residential housing, including, without limitation, a mortgage loan to finance, either temporarily or permanently, the construction, rehabilitation, improvement, or acquisition and rehabilitation or improvement of residential housing and a mortgage loan insured or guaranteed by the United States or an instrumentality thereof or for which there is a commitment by the United States or an instrumentality thereof to insure such a mortgage. A mortgage obligation may be evidenced by a security document and secured by a lien upon real property, 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.
- (8) Mortgage lenders. – Any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association, life insurance company, mortgage banking company, the federal government, and any other financial institution authorized to transact business in the State.
- (9) 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.
- (10) Obligations. – Any bonds or bond anticipation notes authorized to be issued by the Agency under the provisions of this Chapter.
- (11) Persons and families of lower income. – Persons and families deemed by the Agency to require such assistance as is made available by this Chapter on account of insufficient personal or family income, taking into consideration, without limitation, (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the family, (iii) the cost and condition of housing facilities available, (iv) the eligibility of such persons and families for federal housing assistance of any type predicated upon a lower-income basis, and (v) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe, and sanitary housing and deemed by the Agency therefore to be eligible to occupy residential housing financed wholly or in part, with mortgages, or with other public or private assistance.
- (12) Residential housing. – A specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower income, including the rehabilitation of buildings and

improvements, and such other nonhousing facilities as may be incidental or appurtenant thereto.

(13) State. – The State of North Carolina.

(14) Rehabilitation. – The renovation or improvement of residential housing by the owner of said residential housing."

SECTION 21.1.(b) G.S. 122A-5.4(b) reads as rewritten:

"(b) The terms "persons and families of lower income" and "persons of lower income" wherever they appear in this Chapter, except where they appear in G.S. 122A-2 and ~~122A-3(11)~~, G.S. 122A-3, shall be deemed to include "persons and families of moderate income" as defined in clause (c) of this section."

SECTION 21.1.(c) Chapter 122A of the General Statutes is amended by adding a new section to read:

"§ 122A-5.14. Home Protection Program and Fund.

(a) The North Carolina Housing Finance Agency shall establish and administer the Home Protection Program ("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 Home Protection Program Fund ("Fund") to ensure that workers in North Carolina have assistance to avoid losing their homes to foreclosure.
- (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 North Carolina to be available to assist the Agency in implementing the provisions of this section, provide services such as direct mortgagee negotiations on behalf of unemployed workers, and 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.

(b) Home Protection Period. – 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 for a period of 120 days following the date of the mortgagor's properly filed application:

- (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.

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 10 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.

(c) Rule Making. – Solely with respect to the adoption of procedures for the 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.

(d) Annual Report. – By April 1 of each year, the Agency shall report to the House Appropriations Subcommittee on General Government and Senate Appropriations Subcommittee on General Government and Information Technology 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 21.1.(d) Of the funds appropriated to the Housing Finance Agency and allocated to the Home Protection Program Fund in this act, at least two-thirds shall be used for loans to North Carolina workers who have lost jobs as a result of changing economic conditions. If less than two-thirds of the funds allocated to the program go to loans, the Housing Finance Agency shall account for and explain the failure to meet this requirement during the Housing Finance Agency's annual report to the House Appropriations Subcommittee on General Government and Senate Appropriations Subcommittee on General Government and Information Technology.

PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT

STAFFING ANALYSIS OF THE ETHICS COMMISSION AND THE LOBBYIST REGISTRATION SECTION OF THE DEPARTMENT OF SECRETARY OF STATE

SECTION 22.1. The Office of State Budget and Management shall conduct a staffing analysis of the Ethics Commission and the Lobbyist Registration Section of the Department of Secretary of State to determine if the staffing is appropriate for the workload volume that has been generated by the enactment of Session Law 2006-201. The Office of State Budget and Management shall submit a final report outlining its findings and staffing recommendations to the House Appropriations Subcommittee on

General Government, Senate Appropriations Subcommittee on General Government and Information Technology, and the Fiscal Research Division by March 1, 2009.

MODIFY STATE FIRE PROTECTION GRANT FUND

SECTION 22.2. Effective July 1, 2008, G.S. 58-85A-1(c) reads as rewritten:

"(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund up to ~~three million eight hundred eighty thousand dollars (\$3,880,000)~~ four million one hundred eighty thousand dollars (\$4,180,000) from the General Fund, one hundred fifty-eight thousand dollars (\$158,000) from the Highway Fund, and one million three hundred forty-five thousand dollars (\$1,345,000) from University of North Carolina receipts. Funds received from the General Fund shall be allocated only for providing local fire protection for State-owned property supported by the General Fund; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

MILITARY MORALE, RECREATION, AND WELFARE FUNDS

SECTION 22.3. Funds appropriated in this act to the Office of State Budget and Management to the Reserve for the Military Morale, Recreation, and Welfare Fund and distributed to each military installation on a per capita basis shall be deposited in the Military Morale, Recreation, and Welfare Fund for each installation and used only for community services and other expenditures to improve quality of life programs for military members and their families in North Carolina.

STAFFING ANALYSIS OF THE YOUTH ADVOCACY & INVOLVEMENT OFFICE

SECTION 22.4. The Office of State Budget and Management shall conduct a staffing analysis of the Youth Advocacy and Involvement Office of the Department of Administration to determine if the staffing is appropriate for the workload volume. The Office of State Budget and Management shall submit a final report outlining its findings and staffing recommendations to the House Appropriations Subcommittee on General Government, the Senate Appropriations Subcommittee on General Government and Information Technology, and the Fiscal Research Division by March 1, 2009.

STAFFING SURVEY OF STATE AGENCIES AND UNIVERSITIES THAT USE THE BEACON SYSTEM

SECTION 22.5. The Office of State Budget and Management shall conduct a staffing survey of all State agencies and universities that use the BEACON system and determine the number of FTE staff assigned to BEACON training. The Office of State Budget and Management shall submit a final report outlining its findings and staffing recommendations to the House Appropriations Subcommittee on General Government, the Senate Appropriations Subcommittee on General Government and Information Technology, and the Fiscal Research Division by March 1, 2009.

STUDY DOA ASSISTANCE TO COUNTY VETERANS SERVICE PROGRAMS

SECTION 22.6.(a) The Office of State Budget and Management, in consultation with the Department of Administration, shall study the level of State

assistance provided to county veterans service programs by the Aid to Counties program within the Department of Administration pursuant to G.S. 165-6(9). The Office will collect data from county programs, including a five-year analysis of county spending, the number and type of veteran claims filed, and the number of FTE staff assigned to the county programs, to assess the level of services provided. The study should examine the effect of changing the amount of assistance that a county is eligible to receive pursuant to G.S. 165-6(9). The study should include an analysis of the number of claims filed with each veterans service program; total county spending for the programs; and the county veteran population. The study should also include a section on recommended statutory changes, budgetary increases, distribution reallocations, and administrative changes to the Division of Veterans Affairs.

SECTION 22.6.(b) The Office of State Budget and Management shall submit a final report of its findings and recommendations to the House Appropriations Subcommittee on General Government, the Senate Appropriations Subcommittee on General Government and Information Technology, and the Fiscal Research Division no later than March 1, 2009.

NORTH CAROLINA STATE VETERANS PARK

SECTION 22.7.(a) The General Assembly finds that:

- (1) It is fitting and appropriate that the State of North Carolina establish a world-class, twenty-first century memorial park honoring the sacrifices of members of the Armed Services and recognizing the special place that the military occupies in the lives of the citizens of this State.
- (2) Veterans from across this State and from all branches of the Armed Services deserve a place for meaningful reflection, a place to take pride in their service and to bond with their fellow veterans and grateful countrymen.
- (3) The optimal means of providing veterans with these opportunities is to create a twenty-first century park that includes a formal garden, a visitors center, and a Freedom Trail and that is beautiful, reflective, and contemplative.

SECTION 22.7.(b) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of fifteen million dollars (\$15,000,000) for the 2008-2009 fiscal year shall be allocated as a grant-in-aid to the City of Fayetteville for the construction of the North Carolina State Veterans Park. The Park shall provide a place for meaningful reflection and inspiration in a community setting that is beautiful and unique to honor the lives, service, and pride of veterans from across North Carolina.

PART XXIII. DEPARTMENT OF REVENUE

USE OF COLLECTION ASSISTANCE FEE

SECTION 23.1. Section 6.9(b) of S.L. 2007-323 reads as rewritten:

"SECTION 6.9.(b) The General Assembly finds that a computer system that records tax payments and determines when the payments are overdue directly and primarily relates to the collection of overdue tax debts and that the proceeds of the collection assistance fee imposed by G.S. 105-243.1 may be applied to the cost of the computer system ~~is subject to the collection assistance fee set forth in G.S. 105-243.1. system.~~ The Department of Revenue is authorized to use funds in the 20% Collection Assistance Fee Account, Budget Code 24704-2474, during the 2007-2008 and

2008-2009 fiscal year-years to replace the Department's current computer system, and these funds are appropriated to the Department for that purpose. ~~The~~ For fiscal year 2007-2008, the Department shall not use more than fifteen million dollars (\$15,000,000) from the Account to replace the Department's current computer system. ~~Funds appropriated to the Department in this subsection remain in the Account until withdrawn for expenditures for a replacement computer system and shall remain in the Account if not expended during the 2007-2008 fiscal year for the purposes set forth in this subsection.~~ For fiscal year 2008-2009, the Department shall not use more than twenty-five million dollars (\$25,000,000) from the Account to replace the Department's current computer system.

Funds appropriated under this subsection may be transferred to Budget Code 24708-2478 to be applied to expenditures for a replacement computer system. Funds appropriated under this subsection that are not transferred to Budget Code 24708-2478 remain in the Account until they are transferred to that Budget Code or withdrawn for expenditures for a replacement computer system. Funds appropriated under this subsection that are not expended at the end of the 2007-2009 biennium remain available for expenditure for the purpose designated in this subsection."

PART XXIV. STATE BOARD OF ELECTIONS

2008 EARLY VOTING FUNDS

SECTION 24.1. Section 25.1(a) of S.L. 2007-323 reads as rewritten:

"SECTION 25.1(a) The State Board of Elections shall use funds in the Maintenance of Effort Reserve as follows:

- (1) \$1,500,000 nonrecurring in fiscal year 2007-2008 and \$500,000 nonrecurring in fiscal year 2008-2009 to rebuild the State Elections Information Management System (SEIMS).
- (2) \$100,000 recurring in fiscal year 2007-2008 for the required training for all county boards of elections staff on voting equipment operating procedures.
- (3) \$427,500 recurring in fiscal year 2007-2008 to centralize ballot coding in North Carolina to provide oversight, ensure accuracy of election preparation, and reduce errors with ballot styles.
- (4) \$150,000 recurring in fiscal year 2007-2008 to hire 20 additional election technicians across the State to deal with technical problems that arise on a 2008 Election Day in which a federal election is on the ballot.
- (5) \$1,000,000 nonrecurring in fiscal year 2008-2009 provided for additional operating support for one-stop absentee voting (early voting) sites for the 2008 general election."

PART XXV. DEPARTMENT OF TRANSPORTATION

INCREASE ADMINISTRATIVE APPROPRIATION FOR THE HIGHWAY TRUST FUND

SECTION 25.1. 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%)~~ four and eight-tenths percent (4.8%) 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, three and eight tenths percent (3.8%) through fiscal year 2006-2007, and four and two tenths percent (4.2%) 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 projects on segments or corridors of the Intrastate System as described in G.S. 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."

DEPARTMENT OF TRANSPORTATION TO PRODUCE BIENNIAL STATE TRANSPORTATION MAPS AND COASTAL BOATING GUIDES

SECTION 25.2.(a) The Department of Transportation shall cease annual production of the North Carolina State Transportation Map and Coastal Boating Guide and shall produce a biennial North Carolina State Transportation Map and may provide funding for a biennial Coastal Boating Guide, in conjunction with the Wildlife Resources Commission, beginning in the 2008-2009 fiscal year.

SECTION 25.2.(b) The Department shall provide a written report to the Joint Legislative Transportation Oversight Committee on the biennial map production plan and identify any cost savings for nonproduction years. The report shall also include

historical budget and production information for the past five years. The report is due by March 1, 2009.

ONE-STOP SHOPS FOR DRIVERS LICENSE AND REGISTRATION PLATES

SECTION 25.3.(a) The Department of Transportation, Division of Motor Vehicles, is prohibited from opening drivers license issuance and vehicle registration issuance and renewal One-Stop Shops until the General Assembly has considered and appropriated funds for the purpose of One-Stop Shops.

SECTION 25.3.(b) The Department of Transportation shall develop a plan that thoroughly outlines the operational plans of combined function centers designated as One-Stop Shops. The plan may contain recommendations regarding making necessary changes to G.S. 20-63(h) to expand Division services. The plan should detail a cost-effectiveness comparison between the current means for delivery of service and the proposed combined function center services. The plan should also include a thorough justification for each proposed One-Stop Shop location, including any assumptions made in the justification process. The plan should clearly highlight the benefits to the State, including customer service enhancements for Division customers obtained by implementation of One-Stop Shops. The Division shall also conduct an analysis of the anticipated number of transactions at the One-Stop Shops and consider the impact on commission contracts for independent license plate agents, as well as any other interested party affected by the change.

SECTION 25.3.(c) The Division shall report to the Joint Legislative Transportation Oversight Committee, the Joint Appropriations Subcommittee for Transportation, and the Fiscal Research Division no later than October 31, 2008.

REALIGN THE CONTINUATION AND CERTIFIED BUDGETS OF EACH DIVISION WITHIN THE DEPARTMENT

SECTION 25.4.(a) Notwithstanding G.S. 143C-6-1 and G.S. 143C-6-7, the Department of Transportation and the Office of State Budget and Management shall review each of the Department's divisions' expenditure patterns and realign the continuation and certified budget for the 2009-2011 Fiscal Biennium. The certified budget shall become the current expenditure plan for each division based on anticipated expenditure patterns.

SECTION 25.4.(b) The Department of Transportation shall prepare a report on the cash spending plan based on the certified budget's fund codes. This report shall show cash expenditure plans for the 2008-2009 fiscal year.

SECTION 25.4.(c) The Department of Transportation and the Office of State Budget and Management shall jointly study alternatives and enhancements to the current budgeting process that highlight and more closely align the Department's division, DMV, ferry, rail, public transportation, and administration spending with performance outcomes and metrics. Study goals include greater clarity of budgets and cash work plans, flexible funding capabilities, and projected investment performance.

SECTION 25.4.(d) The Department of Transportation shall develop a quarterly report that evaluates the Department's achievement of performance measures for safety, preservation, capacity improvements, ITS, effective and efficient business practices, spending plans, DMV services, minority and disadvantaged business goals, and other relevant performance indicators. Division performance comparisons will be included where applicable. The fourth quarter report will serve as the annual

performance evaluation and shall be submitted to the Governor and Legislature, including the Joint Legislative Transportation Oversight Committee.

SECTION 25.4.(e) The Department of Transportation and the Office of State Budget and Management shall report on its cash spending plan for the 2008-2009 fiscal year and shall present recommendations for a revised budget process to the Joint Legislative Transportation Oversight Committee, Appropriations Subcommittee for Transportation, and the Fiscal Research Division no later than November 1, 2008. The Department of Transportation shall present the Fiscal Year 2009 first quarter performance report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than November 15, 2008.

TRANSFER HIGHWAY TRUST FUND MONIES IN THE AMOUNT OF TWENTY-FIVE MILLION DOLLARS BEGINNING IN FISCAL YEAR 2008-2009, SIXTY-FOUR MILLION DOLLARS BEGINNING IN FISCAL YEAR 2009-2010, AND NINETY-NINE MILLION DOLLARS BEGINNING IN FISCAL YEAR 2010-2011 TO THE NC TURNPIKE AUTHORITY FOR DEBT SERVICE ON BONDS

SECTION 25.5.(a) G.S. 105-187.9(b) reads as rewritten:

"(b) Transfer. – In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of one hundred ~~seventy million dollars (\$170,000,000).~~ forty-five million dollars (\$145,000,000).
- (2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

SECTION 25.5.(b) G.S. 136-176 is amended by adding a new subsection to read:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of twenty-five million dollars (\$25,000,000) to be used to service debt on bonds issued for the construction of the Triangle Expressway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this

provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations set forth in this act at any time to decrease or eliminate the amount annually appropriated to the Authority."

SECTION 25.5.(c) G.S. 105-187.9(b) as amended by subsection (a) of this section reads as rewritten:

"(b) Transfer. – In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of ~~one hundred forty five million dollars (\$145,000,000)~~. one hundred six million dollars (\$106,000,000).
- (2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

SECTION 25.5.(d) G.S. 136-176(b2), as enacted by subsection (b) of this section, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~twenty five million dollars (\$25,000,000) to be used to service debt on bonds issued for the construction of the Triangle Expressway.~~ sixty-four million dollars (\$64,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, and fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations set forth

in this act at any time to decrease or eliminate the amount annually appropriated to the Authority."

SECTION 25.5.(e) G.S. 105-187.9(b) as amended by subsections (a) and (c) of this section reads as rewritten:

"(b) Transfer. – In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of ~~one hundred six million dollars (\$106,000,000).~~ seventy-one million dollars (\$71,000,000).
- (2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

SECTION 25.5.(f) G.S. 136-176(b2), as enacted by subsection (b) of this section and as amended by subsection (d) of this section, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~sixty four million dollars (\$64,000,000).~~ ninety-nine million dollars (\$99,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe ~~Connector/Bypass, and Connector/Bypass,~~ Connector/Bypass, fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck ~~Bridge. Bridge,~~ Bridge, and thirty-five million dollars (\$35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations set forth in this act at any time to decrease or eliminate the amount annually appropriated to the Authority."

SECTION 25.5.(g) Subsections (a), (b), and (g) of this section become effective July 1, 2008. Subsections (c) and (d) of this section become effective July 1, 2009. Subsections (e) and (f) of this section become effective July 1, 2010.

FUNDS FOR UNSAFE AND OBSOLETE FIELD FACILITIES

SECTION 25.6. Section 27.6 of S.L. 2007-323 is repealed.

CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 25.7.(a) Section 27.2 of S.L. 2007-323 is repealed.

SECTION 25.7.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2009-2010	\$2,070.8 million
For Fiscal Year 2010-2011	\$2,066.0 million
For Fiscal Year 2011-2012	\$2,064.5 million
For Fiscal Year 2012-2013	\$2,075.6 million

SECTION 25.7.(c) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2009-2010	\$1,178.4 million
For Fiscal Year 2010-2011	\$1,199.8 million
For Fiscal Year 2011-2012	\$1,226.9 million
For Fiscal Year 2012-2013	\$1,263.4 million

DEPARTMENT OF TRANSPORTATION TO APPLY FOR INTERSTATE CORRIDOR GRANT FUNDS

SECTION 25.8. The Department of Transportation and the North Carolina Turnpike Authority shall apply for all federal grant monies available for Interstate corridors. The grant funds shall be used for the preservation of the highway infrastructure and to provide for improvements and enhancements to the Interstate.

The Department shall report on the status of all grant applications made and any funding awarded for Interstate corridors to the Joint Legislative Transportation Oversight Committee no later than December 1, 2008.

AVIATION FUNDS FOR THE MOUNT AIRY-SURRY COUNTY AIRPORT AUTHORITY AND THE ASHE COUNTY AIRPORT

SECTION 25.9.(a) Of the funds appropriated to the Department of Transportation, Division of Aviation, for fiscal year 2008-2009, the sum of three million dollars (\$3,000,000) shall be allocated to the Mount Airy-Surry County Airport Authority for expansion and renovation of the regional airport.

SECTION 25.9.(b) Of the funds appropriated to the Department of Transportation, Division of Aviation, for fiscal year 2008-2009, the sum of two million five hundred thousand dollars (\$2,500,000) shall be allocated to Ashe County to be used for expansion and renovation of the Ashe County Airport.

CLOSURE OF EXITS ON INTERSTATE HIGHWAYS

SECTION 25.10. If any exits on an interstate highway are scheduled for permanent closure before September 30, 2008, other than an exit that was created and exists solely as a temporary exit in a construction zone that would be closed upon completion of the construction project, the Department of Transportation shall apply for

a waiver or request for reconsideration from the United States Department of Transportation or any other federal agency, as required, to keep the exit or exits open to vehicular traffic exiting from the interstate highway. If the Department of Transportation has applied for a waiver or request for reconsideration and received a decision from the United States Department of Transportation on or before June 30, 2008, the Department shall be deemed to have met the requirements for this section and shall proceed as directed by the United States Department of Transportation.

DEPARTMENT OF TRANSPORTATION TO PLANT SEEDLINGS IN RIGHTS-OF-WAY

SECTION 25.12.(a) Of the funds appropriated to the Department of Transportation up to one million dollars (\$1,000,000) per year, for five years, beginning with the 2008-2009 fiscal year, shall be used to develop and implement a plan to plant trees and shrubs native to North Carolina along the State's roads and highways in the rights-of-way. The Department shall consult with and use the expertise of the United States Forest Service and the Division of Forest Resources of the North Carolina Department of Environment and Natural Resources in the development and implementation of the plan. The plan shall include the planting of trees, shrubs, and other vegetation that (i) are native to the various regions and areas of the State in which they are being planted, (ii) will provide clean air and otherwise benefit the State's environment, (iii) are appropriately placed for the safety of those traveling on the roads and highways, and (iv) reduce the costs of mowing and maintaining the rights-of-way along the State's roads and highways.

SECTION 25.12.(b) The Department shall procure the seedlings from the North Carolina Division of Forest Resources or any State institution that cultivates seedling trees. If the seedlings are cultivated from within the State, the Department shall revegetate the cleared area with the same tree, shrub, or other vegetation harvested within the first planting season after the area is cleared. If no State agency cultivates seedling trees, then the Department shall procure seedlings grown in North Carolina. The Department shall, to the fullest extent possible, use inmates of the Department of Correction to plant and maintain the trees. The Department shall submit the plan to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee by October 1, 2008, and begin implementation of the plan by January 1, 2009.

DRIVERS LICENSE FORMAT CHANGE

SECTION 25.13. Provided that the Commissioner of the Department of Motor Vehicles is not required to reissue a drivers license in the horizontal format to drivers when the drivers turn 21, up to fifty thousand dollars (\$50,000) of any funding received by the Division of Motor Vehicles to help fund the drivers license format change from horizontal to vertical, for drivers less than 21 years of age, shall be appropriated to the Department of Transportation, System Preservation Account, to replace funds previously expended by the Division for this initiative.

SHORT LINE RAIL IMPROVEMENTS FOR THE PIEDMONT & NORTHERN CORRIDOR AND OTHER TRANSIT AND RAIL IMPROVEMENTS

SECTION 25.14.(a) Of the funds appropriated to the Department of Transportation, Divisions of Rail and Public Transportation, up to five million dollars (\$5,000,000) shall be spent to improve the railroad track for the Piedmont & Northern

corridor to current operating standards after the Rail Division has entered into a formal lease with a qualified operator. The lease shall contain terms that provide for a cost share of at least ten percent (10%), by the operator, for any improvements to the corridor for the operation of the rail line.

SECTION 25.14.(b) The Department of Transportation shall report the terms of any proposed lease for the Piedmont & Northern rail corridor to the Joint Legislative Transportation Oversight Committee no later than 30 days after a final lease has been proposed for the rail corridor.

FUNDS TRANSFER TO SUPPORT GLOBAL TRANSPARK FREIGHT TRANSPORTATION SYSTEM

SECTION 25.15. G.S. 136-176(a1)(2) reads as rewritten:

"(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. If any funds allocated by this subdivision, in the cash balance of the Highway Trust Fund, remain unspent on June 30, 2008, the Department may transfer within the Department up to twenty-nine million dollars (\$29,000,000) of available funds to contract for freight transportation system improvements for the Global TransPark."

KEEP AMERICA BEAUTIFUL ORGANIZATION STAFF FUNDS

SECTION 25.16. Of the funds appropriated to the Department of Transportation, the sum of forty thousand dollars (\$40,000), in recurring funds, for the 2008-2009 fiscal year is allocated to The North Carolina Clean Foundation, a nonprofit organization, to support a program coordinator for the North Carolina Keep America Beautiful organization.

REPAIRS AND RENOVATIONS FUNDS

SECTION 25.17.(a) Of the funds appropriated to the Highway Trust Fund, Highway Construction Program, for fiscal year 2008-2009, up to five million two hundred fifty thousand dollars (\$5,250,000) may be used by the Department of Transportation for repairs and renovations of Department facilities throughout the State.

SECTION 25.17.(b) The Department of Transportation shall report to Joint Legislative Transportation Oversight Committee on the repair and renovations program, the planned use of funds for repairs and renovations, and the prioritization of needs for fiscal years 2009-2010 and 2010-2011 no later than October 30, 2008.

STORMWATER RUNOFF FROM BRIDGES

SECTION 25.18.(a) Of funds available to the Department of Transportation, the Department, in cooperation with the Center for Transportation and the Environment at North Carolina State University, shall conduct a pilot study on 50 bridges, located throughout the State in various ecosystems, of the installation of various types of storm water detention, collection, and filtering systems during new bridge construction over waterways. The Department may also retrofit existing bridges as part of its pilot study. Treatments and methods used in the pilot study shall include but not be limited to those treatments found effective by other states and new treatments identified through investigation and research which may be effective. Construction or retrofitting shall be

initiated on at least 25 of the 50 bridges by July 1, 2009. Construction or retrofitting shall be initiated on the remaining bridge projects by January 1, 2010.

SECTION 25.18.(b) An interim report shall be made to the Joint Legislative Transportation Oversight Committee no later than July 1, 2009, that includes information which quantifies stormwater runoff at structures as well as the types of pollutants, the various treatments which will be constructed and evaluated to target these pollutant types, and a measurement and collection plan to determine effectiveness of the evaluated treatments.

SECTION 25.18.(c) A final report shall be made to the Joint Legislative Transportation Oversight Committee no later than July 1, 2010. The final report shall include as a minimum, the effectiveness of the treatments included in the study, costs of each treatment, and the costs of implementing effective treatments on new bridge construction projects as well as existing bridge retrofit projects for all bridges over waterways in the State.

PART XXVI. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 26.1.(a) Effective July 1, 2008, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred thirty five thousand eight hundred fifty four dollars (\$135,854)~~ one hundred thirty-nine thousand five hundred ninety dollars (\$139,590) annually, payable monthly."

SECTION 26.1.(b) Section 28.1(b) of S.L. 2007-323 reads as rewritten:

"**SECTION 28.1.(b)** Effective ~~July 1, 2007,~~ July 1, 2008, the annual salaries for the members of the Council of State, payable monthly, for the ~~2007-2008 and 2008-2009~~ fiscal years-year are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$119,901 <u>\$123,198</u>
Attorney General	119,901 <u>123,198</u>
Secretary of State	119,901 <u>123,198</u>
State Treasurer	119,901 <u>123,198</u>
State Auditor	119,901 <u>123,198</u>
Superintendent of Public Instruction	119,901 <u>123,198</u>
Agriculture Commissioner	119,901 <u>123,198</u>
Insurance Commissioner	119,901 <u>123,198</u>
Labor Commissioner	119,901 <u>123,198</u> "

NONELECTED DEPARTMENT HEAD/SALARY INCREASES

SECTION 26.2. Effective July 1, 2008, Section 28.2 of S.L. 2007-323 reads as rewritten:

"**SECTION 28.2.** In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the ~~2007-2008 and 2008-2009~~ fiscal years-year are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$117,142 <u>\$120,363</u>
Secretary of Correction	117,142 <u>120,363</u>

Secretary of Crime Control and Public Safety	117,142	<u>120,363</u>
Secretary of Cultural Resources	117,142	<u>120,363</u>
Secretary of Commerce	117,142	<u>120,363</u>
Secretary of Environment and Natural Resources	117,142	<u>120,363</u>
Secretary of Health and Human Services	117,142	<u>120,363</u>
Secretary of Juvenile Justice and Delinquency Prevention	117,142	<u>120,363</u>
Secretary of Revenue	117,142	<u>120,363</u>
Secretary of Transportation	117,142	<u>120,363</u> "

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 26.3. Effective July 1, 2008, Section 28.3 of S.L. 2007-323 reads as rewritten:

"**SECTION 28.3.** The annual salaries, payable monthly, for the ~~2007-2008~~ and 2008-2009 fiscal ~~years-year~~ for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>	
Chairman, Alcoholic Beverage Control Commission	\$106,621	<u>\$109,553</u>
State Controller	149,216	<u>153,319</u>
Commissioner of Motor Vehicles	106,621	<u>109,553</u>
Commissioner of Banks	119,901	<u>123,198</u>
Chairman, Employment Security Commission		133,161
State Personnel Director	117,142	<u>120,363</u>
Chairman, Parole Commission	97,358	<u>100,035</u>
Members of the Parole Commission	44,942	<u>46,178</u>
Chairman, Utilities Commission	133,531	<u>137,203</u>
Members of the Utilities Commission	119,901	<u>123,198</u>
Executive Director, Agency for Public Telecommunications	89,884	<u>92,356</u>
Director, Museum of Art	109,252	<u>112,256</u>
Executive Director, North Carolina Agricultural Finance Authority	103,781	<u>106,635</u>
State Chief Information Officer	149,126	<u>153,227</u> "

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 26.4.(a) Effective July 1, 2008, Section 28.4 of S.L. 2007-323 reads as written:

"**SECTION 28.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the ~~2007-2008~~ and 2008-2009 fiscal ~~years-year~~ are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>	
Chief Justice, Supreme Court	\$137,160	<u>\$140,932</u>
Associate Justice, Supreme Court	133,576	<u>137,249</u>
Chief Judge, Court of Appeals	130,236	<u>133,817</u>
Judge, Court of Appeals	128,011	<u>131,531</u>
Judge, Senior Regular Resident Superior Court	124,532	<u>127,957</u>
Judge, Superior Court	121,053	<u>124,382</u>
Chief Judge, District Court	109,923	<u>112,946</u>
Judge, District Court	106,445	<u>109,372</u>

District Attorney	116,112	119,305
Administrative Officer of the Courts	123,346	126,738
Assistant Administrative Officer of the Courts	112,665	115,763
Public Defender	116,112	119,305
<u>Director of Indigent Defense Services</u>		<u>123,022</u>

"SECTION 28.4.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed sixty-nine thousand forty-seven dollars (\$69,047), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-six thousand eighty-two dollars (\$36,082), effective July 1, 2007.

"SECTION 28.4.(b1) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed seventy thousand nine hundred forty-six dollars (\$70,946), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-seven thousand one hundred eighty-two dollars (\$37,182), effective July 1, 2008.

"SECTION 28.4.(c) Effective July 1, 2007, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by four percent (4.0%). Effective July 1, 2008, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

"SECTION 28.4.(d) Effective July 1, 2007, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by four percent (4.0%). Effective July 1, 2008, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by pro rata amounts of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%) whichever is greater."

SECTION 26.4.(b) Effective July 1, 2008, G.S. 7A-498.6(a) reads as rewritten:

"(a) The Director of Indigent Defense Services shall be appointed by the Commission for a term of four years. The salary of the Director shall be set by the General Assembly in the Current Operations Appropriations Act, after consultation with the Commission. The Director may be removed during this term in the discretion of the Commission by a vote of two-thirds of all of the Commission members. The Director shall be an attorney licensed and eligible to practice in the courts of this State at the time of appointment and at all times during service as the Director."

SECTION 26.4.(c) Effective July 1, 2008, G.S. 7A-498.6 is amended by adding a new subsection to read:

"(c) In lieu of merit and other increment raises paid to regular State employees, the Director of Indigent Defense Services shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current

Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as Director of Indigent Defense Services, a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court."

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 26.5. Effective July 1, 2008, 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	\$ 80,196 <u>\$82,401</u>
100,000 to 149,999	89,993 <u>92,468</u>
150,000 to 249,999	99,792 <u>102,536</u>
250,000 and above	109,593 <u>112,607</u>

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 26.6. Effective July 1, 2008, 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	\$31,122 <u>\$32,222</u>
Maximum	53,301 <u>54,767</u>
Deputy Clerks	Annual Salary
Minimum	\$26,788 <u>\$27,888</u>
Maximum	41,456 <u>42,596</u>

MAGISTRATES' SALARY INCREASES

SECTION 26.7.(a) Effective July 1, 2008, G.S. 7A-171.1(a) reads as rewritten:

"(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	\$31,533 <u>\$32,633</u>
Step 1	34,425 <u>35,525</u>
Step 2	37,571 <u>38,671</u>
Step 3	41,006 <u>42,134</u>
Step 4	44,768 <u>45,999</u>
Step 5	49,007 <u>50,355</u>
Step 6	53,760 <u>55,238</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, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4."

SECTION 26.7.(b) Effective July 1, 2008, G.S. 7A-171.1(a1)(1) reads as rewritten:

"(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	\$25,428 <u>\$26,528</u>
1 or more but less than 3 years of service	26,595 <u>27,695</u>
3 or more but less than 5 years of service	28,944 <u>30,044</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)."

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

SECTION 26.8. Effective July 1, 2008, 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 ~~one hundred one thousand two hundred ninety eight dollars (\$101,298)~~ one hundred four thousand eighty-four dollars (\$104,084) payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, respectively, for additional employment duties beyond those provided by the rules of their House. 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 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/SALARY INCREASES

SECTION 26.9. Effective July 1, 2008, 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 ~~three hundred fifty nine dollars (\$359.00)~~ three hundred eighty dollars (\$380.00) 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/SALARY INCREASES

SECTION 26.10. Effective July 1, 2008, the Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2007-2008 by the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%). Nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

SECTION 26.11. Section 28.11 of S.L. 2007-323 reads as rewritten:

"**SECTION 28.11.(a)** The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of four percent (4.0%) including funds for the employer's retirement and social security contributions, commencing July 1, 2007, for all community college employees supported by State funds.

"**SECTION 28.11.(a1)** Effective July 1, 2008, the Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal year 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of:

- (1) Three percent (3.0%) including funds for the employer's retirement and social security contributions, commencing July 1, 2008, for all community college faculty and professional staff supported by State funds.

- (2) The greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%) including funds for the employer's retirement and social security contributions, commencing July 1, 2008, for all other community college employees supported by State funds.

"**SECTION 28.11.(b)** The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an additional annual salary increase of one percent (1.0%) for Community College faculty and professional staff, including funds for the employer's retirement and social security contributions, supported by State funds."

COMMUNITY COLLEGE FACULTY SALARIES

SECTION 26.11A. Section 8.5 of S.L. 2007-323 is amended by adding a new subsection to read:

"**SECTION 8.5.(h)** For the 2008-2009 school year, the minimum salaries for nine-month, full-time curriculum community college faculty shall be as follows:

<u>Education Level</u>	<u>Minimum Salary</u>
<u>Vocational Diploma/Certificate or Less</u>	<u>\$34,314</u>
<u>Associate Degree or Equivalent</u>	<u>\$34,819</u>
<u>Bachelor's Degree</u>	<u>\$37,009</u>
<u>Master's Degree or Education Specialist</u>	<u>\$38,952</u>
<u>Doctoral Degree</u>	<u>\$41,753.</u>

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."

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

SECTION 26.12. Section 28.12 of S.L. 2007-323 reads as rewritten:

"**SECTION 28.12.(a)** Effective July 1, 2007, 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 2007-2008 and 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of five percent (5%) for faculty. The percentage annual salary increase of five percent (5%) authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section. The Board of Governors may use a portion of the annual salary increase provided by this section to improve competitive national peer rankings for faculty.

"**SECTION 28.12.(a1)** Effective July 1, 2008, 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 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than

teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of three percent (3%) for faculty and non-faculty. The percentage annual salary increase of three percent (3%) authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

"SECTION 28.12.(b) Effective July 1, 2007, 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 2007-2008 and 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of four percent (4.0%) for nonfaculty.

"SECTION 28.12.(c) 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 2007-2008 and 2008-2009 to provide an average annual salary increase of five percent (5%) but at least an annual increase of one thousand two hundred forty dollars (\$1,240), including funds for the employer's retirement and social security contributions, commencing July 1, 2007, 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.

"SECTION 28.12.(c1) 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 2008-2009, to provide an average annual salary increase of three percent (3%), but at least an annual increase of four hundred seventy dollars (\$470.00), including funds for the employer's retirement and social security contributions, commencing July 1, 2008, 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.

LOTTERY COMMISSION COMPENSATION INCREASES

SECTION 26.12A. Article 8 of Chapter 18C of the General Statutes is amended by adding a new section to read:

"§ 18C-120.173. Limits on compensation increases.

Notwithstanding G.S. 18C-114(a)(11) and G.S. 18C-120(b)(3), the Lottery Commission, during any fiscal year, may not expend funds for merit and performance-based salary increases in excess of the funds that would have been expended had the Lottery Commission employees received the same across-the-board salary increases granted by the General Assembly to State employees subject to the

State Personnel Act. These merit and performance-based salary increases may be awarded on an aggregated average basis according to rules adopted by the Lottery Commission."

MENTAL HEALTH NURSES/SIGN-ON BONUS

SECTION 26.12B.(a) Notwithstanding the provisions of G.S. 126-4(10), the sum of up to five hundred thousand dollars (\$500,000) for the 2008-2009 fiscal year may be used by the Department of Health and Human Services to pay sign-on bonuses to newly employed registered nurses hired during the fiscal year to work in State operated facilities in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

SECTION 26.12B.(b) These sign-on bonuses may not exceed:

- (1) \$8,000 per full-time registered nurse or
- (2) \$4,000 per part-time registered nurse hired to work at least 20 hours but less than 30 hours per week.

One-half of the sign-on bonus shall be paid in the employee's first paycheck with the second installment to be paid after the completion of 36 months of consecutive State service as a registered nurse in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. Employees whose performance ratings, at any time, are not rated at or above level three on the five-level rating scale, or who have documented disciplinary actions for misconduct or performance, shall be ineligible for the second installment of the sign-on bonus.

SECTION 26.12B.(c) Employees who terminate, either voluntarily or involuntarily, before the completion of 36 months of consecutive service shall repay a prorated amount of the sign-on bonus as determined by the Secretary of the Department of Health and Human Services.

LICENSED FERRY PERSONNEL/CLASSIFICATION STUDY/REPORT

SECTION 26.12C. The Office of State Personnel (OSP) shall conduct a classification study of licensed ferry personnel within the Ferry Division of the Department of Transportation to ensure that the Division retains and recruits the most qualified personnel, in the interests of public safety and efficiency, to accomplish the State's important ferry transportation function. By the convening of the 2009 General Assembly, the OSP shall report to the Senate and House Appropriations Committees on the findings of the study, any related actions of the State Personnel Commission, and any related salary increases or adjustments based upon the study.

SALARY ADJUSTMENT FUND CHANGES

SECTION 26.12D. Section 28.18 of S.L. 2007-323 reads as rewritten:

"**SECTION 28.18.(a)** Any remaining appropriations in the General Fund Reserve for Compensation Increases authorized for employee salary increases not required for that purpose may be used to supplement the General Fund Salary Adjustment Fund to support salary adjustments for positions supported by the General Fund. Any remaining appropriations in the Highway Fund Reserves and Transfers authorized for employee salary increases not required for that purpose may be used to supplement the Highway Fund Salary Adjustment Fund to support salary adjustments for positions supported by the Highway Fund.

"**SECTION 28.18.(b)** Funds appropriated or otherwise transferred to the General Fund Salary Adjustment Fund or to the Highway Fund Salary Adjustment Fund by this

act or any other provision of law shall be used to fund agency requests for the following purposes:

- (1) Salary range revisions, special minimum rates, grade to band transfers and geographic site differential adjustments to provide competitive salary rates for affected job classifications/groups in response to changes in labor market 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.

The terms 'salary range revision' and 'reallocation' as used in this section shall conform to the definitions of those terms as previously contained in the State Personnel Manual and adopted by the State Personnel Commission effective immediately prior to November 1, 2005. Funds shall only be used for salary adjustments that are in compliance with State Personnel Commission policies. ~~Funding~~ Except as provided by subsections (g) and (h) of this section, funding shall first be provided to the earliest actions approved ~~on or before July 1, 2007,~~ by the State Personnel Commission or the Office of State Personnel and shall not be used for other purposes including, but not limited to, in-range adjustments, career progression adjustments, or other adjustments as these terms may be defined by State personnel policy.

"SECTION 28.18.(c) The Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations prior to transferring any salary adjustment funds for any State agency.

"SECTION 28.18.(d) The Director of the Budget may:

- (1) Transfer to General Fund budget codes from the General Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section with the oldest of the pending adjustments to be funded first.
- (2) Transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section.

"SECTION 28.18.(e) The Judicial Department is eligible for the funding authorized in subsection (a) of this section.

"SECTION 28.18.(f) Employees subject to the State Personnel Act in The University of North Carolina System are eligible for funding authorized in subsection (a) of this section and for the purposes outlined in subsection (b) of this section.

"SECTION 28.18.(g) Of the funds available in the General Fund Salary Adjustment Fund, the State Construction Office of the Department of Administration shall receive from the Salary Adjustment Fund up to the sum of four hundred eighty-four thousand dollars (\$484,000) for the 2008-2009 fiscal year to adjust salaries for engineering and architect positions due to the career banding of these positions. These grade to band transfers shall receive the highest funding priority.

"SECTION 28.18.(h) Of the funds available in the Highway Fund Salary Adjustment Fund, the Ferry Division of the Department of Transportation shall receive the highest funding priority in fiscal year 2008-2009 to increase salaries of licensed ferry personnel in the event that reallocations or range revisions are approved by the

State Personnel Commission resulting from the classification study of licensed ferry personnel."

MOST STATE EMPLOYEES/SALARY INCREASES

SECTION 26.13. Effective July 1, 2008, Section 28.14 of S.L. 2007-323 reads as rewritten:

"SECTION 28.14.(a) The salaries in effect June 30, 2007, 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, effective July 1, 2007, by four percent (4%). Effective July 1, 2008, the salaries in effect June 30, 2008, 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 Highway Fund shall be increased by the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

"SECTION 28.14.(b) Except as otherwise provided in this act, the fiscal year 2007-2008 salaries for permanent full-time State officials and persons in exempt positions that are recommended by the Governor and set by the General Assembly shall be increased by four percent (4%), effective July 1, 2007. Effective July 1, 2008, the compensation of permanent, full-time State officials and persons in exempt positions that are recommended by the Governor and set by the General Assembly shall be increased by the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

"SECTION 28.14.(c) The salaries in effect for fiscal year 2007-2008 for all permanent part-time State employees shall be increased, effective July 1, 2007, by the four percent (4%) salary increase provided for permanent full-time employees covered under this part. Effective July 1, 2008, the salaries of permanent, part-time State employees shall be increased by the greater of pro rata amounts of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

"SECTION 28.14.(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 to allow ~~a salary increase, effective July 1, 2007, increases~~ 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 28.14.(e) ~~Within~~ For the 2007-2008 fiscal year, within regular State 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 four percent (4%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2007. For the 2008-2009 fiscal year, within regular State 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 the greater of pro rata amounts of one thousand one hundred dollar (\$1,100) or two and seventy-five hundredths percent (2.75%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2008."

ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

SECTION 26.14. Effective July 1, 2008, Section 28.15 of S.L. 2007-323 reads as rewritten:

"**SECTION 28.15.(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 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 28.15.(b)** The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

"**SECTION 28.15.(c)** The fiscal year 2007-2008 salary increases provided in this act are to be effective July 1, 2007, 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 July 1, 2007. The fiscal year 2008-2009 salary increases provided in this act are to be effective July 1, 2008, 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 July 1, 2008.

Payroll checks issued to employees ~~after July 1, 2007,~~ which represent payment of services provided prior to ~~July 1, 2007,~~ these increases shall not be eligible for salary increases provided for in this act. 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 28.15.(d)** The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2007-2008 and fiscal year 2008-2009 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

"**SECTION 28.15.(e)** Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

"**SECTION 28.15.(f)** ~~Permanent~~ For the 2007-2008 fiscal year, permanent, full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the four percent (4.0%) annual increase provided by this act. For the 2008-2009 fiscal year, permanent, full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the greater of the one thousand one hundred dollar (\$1,100) or two and seventy-five hundredths percent (2.75%) annual increase provided by this act."

OFFICE OF STATE PERSONNEL TO PERFORM LABOR MARKET ANALYSIS OF CERTAIN POSITIONS

SECTION 26.15.(a) The Office of State Personnel shall conduct a labor market analysis of the Administrative Support positions in the Department of Transportation to determine whether current employees are compensated appropriately relative to market rates for similar positions. If appropriate, the Office of State Personnel shall recommend to the State Personnel Commission a Salary Range Revision or establishment of a Special Minimum Rate, as those terms are defined in the State Personnel Manual. The Office of State Personnel shall report its findings and any actions of the State Personnel Commission to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the 2009 legislative session.

SECTION 26.15.(b) The Office of State Personnel shall conduct a labor market analysis of the Information Technology and Law Enforcement positions in the Department of Transportation to determine whether current employees are compensated appropriately relative to labor market rates for similar positions. This study shall be based upon employees' competency assessments made at the time these positions were Career Banded or on the employees' date of hire, if later, and shall not include an analysis of "career progression adjustments" that could be made under current policy due to additional skills/competencies demonstrated by an employee subsequent to their initial competency assessment. The Office of State Personnel shall report its findings to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the 2009 legislative session.

SECTION 26.15.(c) The Office of State Personnel shall conduct an analysis of the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services proposal to increase salaries of Health Care Technicians, Developmental Disability Trainers, and Youth Program Assistants based upon the establishment of defined skill and competency sets and employees' subsequent demonstration of those skills and competencies. This analysis shall determine whether the Division's goals can be accomplished through current State Personnel Policy regulating "Reallocations." If so, the Office of State Personnel shall so advise the Division of Mental Health and assist them by timely processing any reallocation requests. The Office of State Personnel shall report its findings and actions to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the 2009 legislative session.

SECTION 26.15.(d) The Office of State Personnel shall conduct a classification study of Statewide Information Technology Procurement positions within the Office of Information Technology to ensure that the Office retains and recruits the most qualified personnel with the necessary knowledge, skills, and abilities to carry out its duties under G.S. 147-33.95 in the procurement of large, complex systems such as MMIS+ and the Integrated Tax Administration System (ITAS). By the convening of the 2009 General Assembly, the Office of State Personnel shall report to the Appropriations Committees of the House of Representatives and the Senate and to the Joint Legislative Committee on Information Technology on the findings of the study, any related actions of the State Personnel Commission, and any related salary increases or adjustments based upon the study.

TEACHER SALARY SCHEDULES

SECTION 26.16.(a) Effective for the 2008-2009 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (d) of this section, including funds for the employer's retirement and social security contributions 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.

SECTION 26.16.(b) The following monthly salary schedules shall apply for the 2008-2009 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 32 steps with each step corresponding to one year of teaching experience.

2008-2009 Monthly Salary Schedule

"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,085	N/A
2	\$3,129	N/A
3	\$3,264	\$3,656
4	\$3,404	\$3,812
5	\$3,538	\$3,963
6	\$3,667	\$4,107
7	\$3,771	\$4,224
8	\$3,819	\$4,277
9	\$3,868	\$4,332
10	\$3,918	\$4,388
11	\$3,967	\$4,443
12	\$4,018	\$4,500
13	\$4,069	\$4,557
14	\$4,122	\$4,617
15	\$4,176	\$4,677
16	\$4,231	\$4,739
17	\$4,286	\$4,800
18	\$4,345	\$4,866
19	\$4,403	\$4,931
20	\$4,461	\$4,996
21	\$4,523	\$5,066
22	\$4,584	\$5,134
23	\$4,650	\$5,208
24	\$4,714	\$5,280
25	\$4,779	\$5,352
26	\$4,845	\$5,426
27	\$4,913	\$5,503
28	\$4,984	\$5,582
29	\$5,055	\$5,662
30	\$5,153	\$5,771
31+	\$5,255	\$5,886

2008-2009 Monthly Salary Schedule

"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0	\$3,347	N/A
1	\$3,394	N/A
2	\$3,442	N/A
3	\$3,590	\$4,021
4	\$3,744	\$4,193
5	\$3,892	\$4,359
6	\$4,034	\$4,518
7	\$4,148	\$4,646
8	\$4,201	\$4,705
9	\$4,255	\$4,766

10	\$4,310	\$4,827
11	\$4,364	\$4,888
12	\$4,420	\$4,950
13	\$4,476	\$5,013
14	\$4,534	\$5,078
15	\$4,594	\$5,145
16	\$4,654	\$5,212
17	\$4,715	\$5,281
18	\$4,780	\$5,354
19	\$4,843	\$5,424
20	\$4,907	\$5,496
21	\$4,975	\$5,572
22	\$5,042	\$5,647
23	\$5,115	\$5,729
24	\$5,185	\$5,807
25	\$5,257	\$5,888
26	\$5,330	\$5,970
27	\$5,404	\$6,052
28	\$5,482	\$6,140
29	\$5,561	\$6,228
30	\$5,668	\$6,348
31+	\$5,781	\$6,475

SECTION 26.16.(c) Annual longevity payments for teachers shall be at the rate of 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. The longevity payment shall be paid in a lump sum once a year.

SECTION 26.16.(d) Certified public schoolteachers 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 schoolteachers 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 26.16.(e) 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 26.16.(f) Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's 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 26.16.(g) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 26.16.(h) As used in this section, the term "teacher" shall also include instructional support personnel.

SCHOOL BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 26.17.(a) Effective for the 2008-2009 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the salary schedules for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 26.17.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2008-2009 fiscal year, commencing July 1, 2008, is as follows:

Years of Exp	2008-2009 Principal and Assistant Principal Salary Schedules				
	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,781	-	-	-	-
5	\$3,931	-	-	-	-
6	\$4,074	-	-	-	-
7	\$4,189	-	-	-	-
8	\$4,243	\$4,243	-	-	-
9	\$4,298	\$4,298	-	-	-
10	\$4,353	\$4,353	\$4,408	-	-
11	\$4,408	\$4,408	\$4,464	-	-
12	\$4,464	\$4,464	\$4,521	\$4,579	-
13	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
14	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
15	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
16	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
17	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
18	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025

19	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
20	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
21	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
22	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
23	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
24	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
25	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
26	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
27	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
28	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
29	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
30	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
31	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
32	-	\$5,956	\$6,075	\$6,197	\$6,321
33	-	-	\$6,197	\$6,321	\$6,447
34	-	-	\$6,321	\$6,447	\$6,576
35	-	-	-	\$6,576	\$6,708
36	-	-	-	\$6,708	\$6,842
37	-	-	-	-	\$6,979

2008-2009 Principal and Assistant Principal Salary Schedules

Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-14	\$4,828	-	-	-
15	\$4,891	-	-	-
16	\$4,956	\$5,025	-	-
17	\$5,025	\$5,092	\$5,237	-
18	\$5,092	\$5,166	\$5,310	\$5,383
19	\$5,166	\$5,237	\$5,383	\$5,458
20	\$5,237	\$5,310	\$5,458	\$5,537
21	\$5,310	\$5,383	\$5,537	\$5,617
22	\$5,383	\$5,458	\$5,617	\$5,725
23	\$5,458	\$5,537	\$5,725	\$5,839
24	\$5,537	\$5,617	\$5,839	\$5,956
25	\$5,617	\$5,725	\$5,956	\$6,075
26	\$5,725	\$5,839	\$6,075	\$6,197
27	\$5,839	\$5,956	\$6,197	\$6,321
28	\$5,956	\$6,075	\$6,321	\$6,447
29	\$6,075	\$6,197	\$6,447	\$6,576
30	\$6,197	\$6,321	\$6,576	\$6,708
31	\$6,321	\$6,447	\$6,708	\$6,842
32	\$6,447	\$6,576	\$6,842	\$6,979
33	\$6,576	\$6,708	\$6,979	\$7,119
34	\$6,708	\$6,842	\$7,119	\$7,261
35	\$6,842	\$6,979	\$7,261	\$7,406
36	\$6,979	\$7,119	\$7,406	\$7,554
37	\$7,119	\$7,261	\$7,554	\$7,705
38	\$7,261	\$7,406	\$7,705	\$7,859

39	-	\$7,554	\$7,859	\$8,016
40	-	\$7,705	\$8,016	\$8,176
41	-	-	\$8,176	\$8,340

SECTION 26.17.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high 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 and in cooperative innovative high school programs 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 26.17.(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 26.17.(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 26.17.(f) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 26.17.(g) 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.

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 26.17.(h) Participants in an approved full-time master's 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 master's program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books 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 master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 26.17.(i) During the 2008-2009 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

CENTRAL OFFICE SALARIES

SECTION 26.18.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2008-2009 fiscal year, beginning July 1, 2008.

School Administrator I	\$3,309	\$6,207
School Administrator II	\$3,508	\$6,583
School Administrator III	\$3,724	\$6,984
School Administrator IV	\$3,874	\$7,262
School Administrator V	\$4,030	\$7,556
School Administrator VI	\$4,275	\$8,013
School Administrator VII	\$4,447	\$8,336

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.

SECTION 26.18.(b) The monthly salary ranges that follow apply to public school superintendents for the 2008-2009 fiscal year, beginning July 1, 2008.

Superintendent I	\$4,720	\$8,843
Superintendent II	\$5,011	\$9,377
Superintendent III	\$5,316	\$9,948
Superintendent IV	\$5,642	\$10,552
Superintendent V	\$5,988	\$11,196

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.

SECTION 26.18.(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 26.18.(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 26.18.(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 26.18.(f) The annual salary increase for all permanent full-time personnel paid from the Central Office Allotment shall be the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%), commencing July 1, 2008. 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 SALARIES

SECTION 26.19.(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 one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%) commencing July 1, 2008.

SECTION 26.19.(b) Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2007-2008 and who continue their employment for fiscal year 2008-2009 by providing an annual salary increase for employees of the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 26.19.(c) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%) for the 2008-2009 fiscal year.

BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY SCHEDULES

SECTION 26.20. Effective July 1, 2008, any permanent personnel employed on July 1, 2008, and paid at the top of the principal and assistant principal salary schedule shall receive a onetime bonus equivalent to two percent (2%).

Effective July 1, 2008, any permanent certified personnel employed on July 1, 2008, and paid on the teacher salary schedule with 31+ years of experience shall

receive a onetime bonus equivalent to one and eight-tenths percent (1.8%). Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

NO PENALTY FOR TEACHERS TAKING ONE DAY OF PERSONAL LEAVE

SECTION 26.21.(a) G.S. 115C-302.1(d) reads as rewritten:

"(d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated without any applicable maximum until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave may be used only upon the authorization of the teacher's immediate supervisor. A teacher shall not take personal leave on the first day the teacher is required to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave. Teachers using up to one day of personal leave per year shall receive full salary less the required substitute deduction. Teachers using more than one day per year shall receive full salary less the required substitute deduction. As used in this subsection, 'teachers' means classroom teachers and media specialists who require a substitute."

SECTION 26.21.(b) This section expires June 30, 2009.

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 26.22. Section 28.19(c) of S.L. 2007-323 reads as rewritten:

"**SECTION 28.19.(c)** Effective July 1, 2008, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2008-2009 fiscal year are: (i) ~~seven and eighty-three hundredths percent (7.83%)~~ eight and fourteen hundredths percent (8.14%) – Teachers and State Employees; (ii) ~~twelve and eighty-three hundredths percent (12.83%)~~ thirteen and fourteen hundredths percent (13.14%) – State Law Enforcement Officers; (iii) eleven and forty-six hundredths percent (11.46%) – University Employees' Optional Retirement System; (iv) eleven and forty-six hundredths percent (11.46%) – Community College Optional Retirement Program; (v) seventeen and thirty-one hundredths percent (17.31%) – Consolidated Judicial Retirement System; and (vi) four and ten hundredths percent (4.10%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ten hundredths percent (4.10%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for

State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM

SECTION 26.23.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(rrr) From and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2007, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2008, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2007, but before June 30, 2008, shall be increased by a prorated amount of two and two-tenths percent (2.2%) 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, 2007, and June 30, 2008."

SECTION 26.23.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(cc) From and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2007, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2008. Furthermore, from and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2007, but before June 30, 2008, shall be increased by a prorated amount of two and two-tenths percent (2.2%) 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, 2007, and June 30, 2008."

SECTION 26.23.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(w) In accordance with subsection (a) of this section, from and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2008, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2008. Furthermore, from and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2008, but before June 30, 2008, shall be increased by a prorated amount of two and two-tenths percent (2.2%) 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, 2008, and June 30, 2008."

INCLUDE THE DIRECTOR OF THE OFFICE OF INDIGENT DEFENSE SERVICES AS A MEMBER OF THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM

SECTION 26.24.(a) G.S. 135-50(b) reads as rewritten:

"(b) The purpose of this Article is to improve the administration of justice by attracting and retaining the most highly qualified talent available within the State to the positions of justice and judge, district attorney and solicitor, public defender, the Director of Indigent Defense Services, and clerk of superior court, within the General Court of Justice."

SECTION 26.24.(b) G.S. 135-51 reads as rewritten:**"§ 135-51. Scope.**

(a) This Article provides consolidated retirement benefits for all justices and judges, district attorneys, and solicitors who are serving on January 1, 1974, and who become such thereafter; and for all clerks of superior court who are so serving on January 1, 1975, and who become such after that date; and for all public defenders who are serving on July 1, 2007, and who become public defenders after that ~~date-date~~; and for the Director of Indigent Defense Services who is serving on July 1, 2008, and those who become Director of Indigent Defense Services after that date.

(b) For justices and judges of the appellate and superior court divisions of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

For district attorneys and judges of the district court of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

For clerks of superior court of the General Court of Justice who so served prior to January 1, 1975, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

(c) The retirement benefits of any person who becomes a justice or judge, district attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after January 1, 1975, or public defender on or after July 1, 2007, or the Director of Indigent Defense Services on or after July 1, 2008, shall be determined solely in accordance with the provisions of this Article."

SECTION 26.24.(c) G.S. 135-53 reads as rewritten:**"§ 135-53. Definitions.**

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Accumulated contributions" with respect to any member shall mean the sum of all the amounts deducted from the compensation of the member pursuant to G.S. 135-68 since he last became a member and credited to his account in the annuity savings fund, plus any amount standing to his credit pursuant to G.S. 135-67(c) as a result of a prior period of membership, plus any amounts credited to his account pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular interest on all such amounts computed as provided in G.S. 135-7(b).
- (2) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the bases of such mortality tables as shall be adopted by the Board of Trustees, and regular interest.
- (2a) "Average final compensation" shall mean the average annual compensation of a member during the 48 consecutive calendar months of membership service producing the highest such average.
- (3) "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided in this Article.
- (4) "Board of Trustees" shall mean the Board of Trustees established by G.S. 135-6.
- (4a) "Clerk of superior court" shall mean the clerk of superior court provided for in G.S. 7A-100(a).

- (5) "Compensation" shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for his service as a justice or judge, or district attorney, or clerk of superior court, or public ~~defender~~defender, or the Director of Indigent Defense Services.
- (6) "Creditable service" shall mean for any member the total of his prior service plus his membership service.
- (6a) "District attorney" shall mean the district attorney or solicitor provided for in G.S. 7A-60.
- (6b) "Director of Indigent Defense Services" shall mean the Director of Indigent Defense Services as provided for in G.S. 7A-498.6.
- (7) "Filing" when used in reference to an application for retirement shall mean the receipt of an acceptable application on a form provided by the Retirement System.
- (8) "Final compensation" shall mean for any member the annual equivalent of the rate of compensation most recently applicable to him.
- (9) "Judge" shall mean any justice or judge of the General Court of Justice and the administrative officer of the courts.
- (10) "Medical board" shall mean the board of physicians provided for in G.S. 135-6.
- (11) "Member" shall mean any person included in the membership of the Retirement System as provided in this Article.
- (12) "Membership service" shall mean service as a judge, district attorney, clerk of superior court, ~~or public defender~~ defender, or the Director of Indigent Defense Services rendered while a member of the Retirement System.
- (13) "Previous system" shall mean, with respect to any member, the retirement benefit provisions of Article 6 and Article 8 of Chapter 7A of the General Statutes, to the extent that such Article or Articles were formerly applicable to the member, and in the case of judges of the district court division, district attorney, public defender, the Director of Indigent Defense Services, and clerk of superior court of the General Court of Justice, the Teachers' and State Employees' Retirement System.
- (14) "Prior service" shall mean service rendered by a member, prior to his membership in the Retirement System, for which credit is allowable under G.S. 135-56.
- (14a) "Public defender" means a public defender provided for in G.S. 7A-498.7, the appellate defender provided for in G.S. 7A-498.8, the capital defender, and the juvenile defender.
- (15) "Regular interest" shall mean interest compounded annually at such a rate as shall be determined by the Board of Trustees in accordance with G.S. 135-7(b).
- (16) "Retirement" shall mean the withdrawal from active service with a retirement allowance granted under the provisions of this Chapter. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.
- (17) "Retirement allowance" shall mean the periodic payments to which a beneficiary becomes entitled under the provisions of this Article.

- (18) "Retirement System" shall mean the "Consolidated Judicial Retirement System" of North Carolina, as established in this Article.
- (19) "Year" as used in this Article shall mean the regular fiscal year beginning July 1 and ending June 30 in the following calendar year, unless otherwise defined by regulation of the Board of Trustees."

SECTION 26.24.(d) G.S. 135-54 reads as rewritten:

"§ 135-54. Name and date of establishment.

A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Article for justices and judges, district attorneys, public defenders, the Director of Indigent Defense Services, and clerks of superior court of the General Court of Justice of North Carolina, and their survivors. The Retirement System so created shall be established as of January 1, 1974.

The Retirement System shall have the power and privileges of a corporation and shall be known as the "Consolidated Judicial Retirement System of North Carolina," and by such name all of its business shall be transacted."

SECTION 26.24.(e) G.S. 135-55 reads as rewritten:

"§ 135-55. Membership.

- (a) The membership of the Retirement System shall consist of:
- (1) All judges and district attorneys in office on January 1, 1974;
 - (2) All persons who become judges and district attorneys or reenter service as judges and district attorneys after January 1, 1974;
 - (3) All clerks of superior court in office on January 1, 1975;
 - (4) All persons who become clerks of superior court or reenter service as clerks of superior court after January 1, 1975;
 - (5) All public defenders in office on July 1, 2007; ~~and~~
 - (6) All persons who become public defenders or reenter service as public defenders after ~~July 1, 2007.~~ July 1, 2007;
 - (7) The Director of Indigent Defense Services on July 1, 2008; and
 - (8) All persons who become the Director of Indigent Defense Services or reenter service as the Director of Indigent Defense Services after July 1, 2008.
- (b) The membership of any person in the Retirement System shall cease upon:
- (1) The withdrawal of his accumulated contributions after he is no longer a judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of superior court, or
 - (2) His retirement under the provisions of the Retirement System, or
 - (3) His death."

SECTION 26.24.(f) G.S. 135-58(a5) reads as rewritten:

"(a5) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2007, but before July 1, 2008, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees'

Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

- (1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, clerk of superior court, or public defender;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and
- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

SECTION 26.24.(g) G.S. 135-58 is amended by adding a new subsection to read:

"(a6) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2008, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

- (1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service

- rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, clerk of superior court, public defender, or the Director of Indigent Defense Services;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and
- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

SECTION 26.24.(h) G.S. 135-56 is amended by adding a new subsection to read:

"(i) On and after July 1, 2008, the creditable service of a member who is the Director of Indigent Defense Services and a member of the Teachers' and State Employees' Retirement System at the time of transfer of membership from the previous system to this System shall include service as the Director of Indigent Defense Services beginning July 1, 2004, that was creditable in the previous system immediately prior to July 1, 2008. The accumulated contributions, creditable service, and reserves, if any, of a member as the Director of Indigent Defense Services beginning July 1, 2004, shall be transferred from the previous system to this System in the same manner as prescribed under G.S. 135-28.1 as it pertained to judges of the district court division of the General Court of Justice."

SECTION 26.24.(i) Notwithstanding the provisions of G.S. 135-28.1, G.S. 135-70.1, or any other law, any member covered by this section shall not be eligible to transfer any remaining creditable service from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System until the member has contributed to the Consolidated Judicial System for a period of five years beginning July 1, 2008.

SECTION 26.24.(j) Notwithstanding any other law, the retirement allowance of any member covered by this section shall be calculated using an Average Final Compensation determined as of June 30, 2008, even though service beginning July 1, 2004, was transferred from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System.

**INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S
AND RESCUE SQUAD WORKERS' PENSION FUND**

SECTION 26.25. 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 sixty seven dollars (\$167.00)~~ one hundred seventy dollars (\$170.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2007, July 1, 2008,~~ receive a pension of ~~one hundred sixty seven dollars (\$167.00)~~ one hundred seventy dollars (\$170.00) 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 sixty seven dollars (\$167.00)~~ one hundred seventy dollars (\$170.00) 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 4A 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 4A 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."

PART XXVII. CAPITAL APPROPRIATIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 27.1. There is appropriated from the General Fund for the 2008-2009 fiscal year the following amounts for capital improvements:

Capital Improvements – General Fund	2008-2009
Department of Administration	
North Carolina Freedom Monument Phase I Planning	\$450,000
Capital Area Visitors Center and Parking Garage Planning	2,600,000
Department of Agriculture and Consumer Services	
Governor James B. Hunt Horse Complex – Horse Barn	900,000
Motor Fuels/Metrology Laboratory Planning	300,000
Veterinary Lab System Study	620,000
Department of Commerce	
Wanchese Seafood Industrial Park – Capital Improvements	605,700
Department of Crime Control and Public Safety	
Butner Training Site Land Buffer – Phase II	126,200
Butner Training Site Sewer Extension and Latrine Replacement	245,430
Master Facilities Planning Statewide – Phase II	300,300
Siler City Armory Rehabilitation Addition and Alteration	929,600
Department of Environment and Natural Resources	
Water Resources Development Projects	20,000,000
Zoo Africa Pavilion Planning	600,000
Department of Justice	
SBI Buildings 17 & 18 Addition	1,792,006
University of North Carolina System	
Appalachian State University – College of Nursing and Health Sciences Building Planning	4,200,000
Elizabeth City State University – School of Aviation Complex Planning and Site Development	1,500,000
Fayetteville State University – Teaching Education and General Classroom Building Planning	4,272,110

North Carolina Agricultural and Technical State University Millennium Campus Joint Primary Data Center	1,852,016
North Carolina School of Science and Mathematics Discovery Center Planning and Site Development	7,250,000
North Carolina State University Engineering Complex Planning	14,400,000
University of North Carolina – Board of Governors Upper Coastal Plain Higher Education Center Planning	1,000,000
University of North Carolina at Asheville – Replace Carmichael Hall & University Lecture Hall Planning	1,100,000
University of North Carolina at Chapel Hill Biomedical Research Imaging Center	35,000,000
Carolina North Phase I and Replacement Law School Planning	11,500,000
Morehead Planetarium Renovation/Expansion Planning	1,800,000
University of North Carolina at Charlotte Science Building Planning	2,400,000
University of North Carolina at Pembroke – Information Commons Building Planning	2,000,000
University of North Carolina at Wilmington – Allied Health and Human Sciences Building Planning	4,320,000
Western Carolina University – Education and Allied Professions Building Planning	4,018,700
Winston-Salem State University Sciences and General Classroom Building Planning	3,000,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$129,082,062

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 27.2.(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	2008-2009
(1) Wilmington Harbor Deepening	\$ 1,000,000
(2) Wilmington Harbor Maintenance	500,000
(3) Morehead City Harbor Maintenance	0
(4) B. Everett Jordan Water Supply Storage	200,000
(5) Dredging Contingency Fund	3,619,000

(6)	Deep Creek Structure 5-D (Yadkin County)	5,444,000
(7)	North Carolina Beach and Inlet Management Plan	250,000
(8)	Neuse River Basin Study	33,000
(9)	Manteo (Shallowbag Bay) Channel Maintenance	100,000
(10)	Currituck Sound Water Management Study	50,000
(11)	Planning Assistance to Communities	100,000
(12)	Bogue Banks Beach Protection	120,000
(13)	West Onslow Beach (Topsail Beach, Pender County)	0
(14)	Belhaven Harbor Feasibility Study	15,000
(15)	Princeville Flood Control	0
(16)	Surf City – N. Topsail Beach Protection (Pender County)	0
(17)	North Carolina International Terminal	500,000
(18)	AIWW Dredging	3,119,000
(19)	State-Local Projects	2,000,000
(20)	Swan Quarter Dike Project (Hyde County)	250,000
(21)	Aquatic Plant Control, Statewide and Lake Gaston	200,000
(22)	Aquatic Weed Program Storage Facility	100,000
(23)	Dillsboro Dam Removal	400,000
(24)	Topsail Beach Emergency Nourishment	2,000,000

TOTALS**\$20,000,000**

SECTION 27.2.(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 2008-2009 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) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2008-2009.
- (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 2009-2010 fiscal year.

SECTION 27.2.(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.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 27.3.(a) Of the funds in the Reserve for Repairs and Renovations for the 2008-2009 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. 143C-4-3, 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. 143C-4-3.

Notwithstanding G.S. 143C-4-3, 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.

SECTION 27.3.(b) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in University residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the University's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.
- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports shall also include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

SECTION 27.3.(c) The Energy Efficiency Reserve shall be administered by the State Energy Office. The State Energy Office, in consultation with the State Construction Office, shall use the funds in the Energy Efficiency Reserve to provide funding for projects designed to make State, university, or community college facilities more energy efficient. Projects eligible to make State, university, or community college facilities more energy efficient from remaining funds in the Energy Efficiency Reserve include:

- (1) Replacement of incandescent light bulbs with compact fluorescent light bulbs, installation of exit signs that employ light-emitting diode (LED) technology, the installation of occupancy sensors or optical sensors, and other lighting efficiency improvements.
- (2) For windows that need replacement, installation of more energy efficient windows.
- (3) Insulation improvements when practicable.
- (4) Replacement of inefficient or oversized heating, ventilation, and air-conditioning (HVAC) systems when those systems are subject to replacement and installation of programmable automation systems.
- (5) Installation of aerators in sink faucets that reduce the flow rate and other water system projects that reduce water consumption.
- (6) Any other retrofit or replacement projects that make State, university, or community college facilities more energy efficient for which the incremental cost of the project will be equal to or less than the energy or water savings that result over a period of three years after completion.

Funds appropriated to the Reserve for the 2008-2009 fiscal year shall not revert and shall remain available until expended. The State Energy Office shall report to the House of Representatives and Senate Appropriations Committees on the use of the Reserve funds no later than May 1, 2009.

SECTION 27.3.(d) Of the funds allocated to the Office of State Budget and Management in subsection (a) of this section:

- (1) \$6,615,500 shall be used for Mattamuskeet Lodge renovations.
- (2) \$2,600,000 shall be used for the Museum of History Chronology Exhibit.
- (3) \$1,225,000 shall be used for plans and specifications to renovate the Department of Agriculture and Consumer Services' main office building in Raleigh.
- (4) \$1,300,000 shall be used to renovate the North Carolina Museum of Forestry.
- (5) \$1,000,000 shall be used to renovate Charlotte Hawkins Brown State Historic Site.
- (6) \$2,700,000 shall be allocated to the Energy Efficiency Reserve created in subsection (c) of this section.

Notwithstanding subsection (a) of this section, the Office of State Budget and Management may allocate or use the funds allocated to it in subsection (a) of this section for the projects enumerated in this subsection without consulting with the Joint Legislative Commission on Governmental Operations.

SECTION 27.3.(e) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, \$2,300,000 shall be allocated to the Energy Efficiency Reserve created in subsection (c) of this section.

Notwithstanding subsection (a) of this section, the Board of Governors may allocate these funds without consulting with the Joint Legislative Commission on Governmental Operations.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 27.4.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources:

Name of Project	Amount of Non-General Fund Funding Authorized for 2008-2009
Department of Agriculture and Consumer Services	
Piedmont Research Station – Grain Storage Facility Renovation	\$ 400,000
Raleigh Farmers Market – Capital Improvements	900,000
Research Stations – Irrigation System Renovation	200,000
Senator Bob Martin Eastern Agricultural Center – Capital Improvements	500,000
State Fair – Campground	6,341,601
State Fair – Infrastructure Improvements	500,000
State Fair – Pond Improvements	500,000
Tidewater Research Station – Phase II of Headhouse/Greenhouse Facility Renovation	750,000
Triad Farmers Market – Capital Improvements	3,000,000
WNC Agricultural Center – New Vision Plan	900,000
Department of Correction	
Broughton Correctional Center – Laundry Steam Plant	1,400,000
Umstead Correctional Center – Laundry Steam Plant	1,322,965
Wayne Correctional Center – Chase Laundry Steam Plant	1,368,926
Department of Crime Control and Public Safety	
NC National Guard – Armory Improvements	8,402,273
NC National Guard – Asheville Field Maintenance Shop	3,743,000
NC National Guard – Camp Butner Training Site – Cantonment Complex	15,617,000
NC National Guard – Fixed Wing Hanger Complex – Morrisville	6,466,000
Department of Cultural Resources	
Museum of Art – Enhanced Landscaping	7,500,000
USS North Carolina Battleship Memorial – Phase 3 Renovations	1,977,000
Department of Environment and Natural Resources	
Bladen Lakes State Forest – Shop Building	943,800
Forest Resources – Region 2 Training Building	460,500
Department of Transportation	
Statewide Transportation Operations Center	7,650,000

Wildlife Resources Commission	
Armstrong Hatchery – Lower Raceway Renovation	1,725,000
Boating Access Area Improvements	2,800,000
Centennial Campus Center for Wildlife Education – Exhibit Completion	200,000
Centennial Campus Center for Wildlife Education – Heat and Humidity Controls	6,000
Chowan Bridge Fishing Pier and Boating Access	2,000,000
Hampstead – Waterfront Access Marine Industry Fund	10,000,000
Land Acquisitions – State Game Lands	62,660,000
Manns Harbor – Waterfront Access Marine Industry Fund	5,750,000
Marion Depot – Drainage Repairs	200,000
McKinney Lake Hatchery – Kettle Replacement	1,955,000
New Coldwater Fish Hatchery	7,900,000
New Construction Depot	500,000
Outer Banks Center for Wildlife Education – Repairs and Improvements	223,000
Outer Banks Center for Wildlife Education – Teaching Facility	700,000
Pisgah Center for Wildlife Education – Gift Shop Extension	200,000
Pisgah Center for Wildlife Education – Outdoor Exhibit	450,000
Pisgah Center for Wildlife Education – Repairs and Improvements	148,000
Pisgah Center for Wildlife Education – Storage Building	150,000
Pisgah Center for Wildlife Education – Teaching Facility	564,905
Pisgah Center for Wildlife Education – Teaching Facility Upfit and Pavilion	280,000
Rhodes Pond Dam Repairs	500,000
Sneads Ferry – Waterfront Access Marine Industry Fund	6,500,000
Sunset Harbor – Waterfront Access Marine Industry Fund	950,000
Swan Lake – Waterfront Access Marine Industry Fund	1,700,000
Table Rock Hatchery – New Building	575,000
Table Rock Hatchery – Office Building and Workshop	345,000
Watha Fish Hatchery – Residence Replacement	707,250

**TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL
PROJECTS AUTHORIZED**

\$180,532,220

SECTION 27.4.(b) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2008-2009 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, environmental studies, and for the management of the plant conservation program preserves owned by the Department.

SECTION 27.4.(c) Of the funds previously authorized to be used for the construction of a frozen dough manufacturing facility at Maury Correctional Institution,

the Department of Correction may use one million five hundred thousand dollars (\$1,500,000) to upfit a general industry operation at Tabor Correctional Institution.

STUDY RELOCATION OF HIGHWAY PATROL TRAINING FACILITIES

SECTION 27.5. The Department of Crime Control and Public Safety, in consultation with the Department of Administration, shall study suitable locations all across this State outside of Raleigh for a relocation of the Highway Patrol's Garner Road complex and shall report its findings and recommendations to the Chairs of the House and Senate Appropriations Committees and to the Chairs of the House Appropriations Subcommittee on Capital no later than February 1, 2009.

ACCESS TO DRY CLEANING SOLVENT CLEANUP FUND FOR GREEN SQUARE PROJECT

SECTION 27.6. Of the funds appropriated in this act to the Department of Environment and Natural Resources, Environmental Management Commission, Dry-Cleaning Solvent Cleanup Fund, the sum of up to two million dollars (\$2,000,000) may be transferred to the Green Square Project capital fund to cover the costs associated with remediation of dry cleaning contamination on the Green Square Complex Site.

CHRONOLOGY EXHIBIT ON FIRST FLOOR OF NC MUSEUM OF HISTORY

SECTION 27.7. The Department of Cultural Resources may use all of the funds appropriated in this act and in Section 29.1 of S.L. 2007-323 for the North Carolina Museum of History Chronology Exhibit to make capital improvements necessary to ensure that the entire exhibit is located on the first floor of the Museum.

DESIGN AND CONSTRUCTION OF NORTH CAROLINA FREEDOM MONUMENT

SECTION 27.7A. The Department of Administration shall contract with North Carolina Freedom Monument Project, Inc., a nonprofit corporation, for the design and construction of the North Carolina Freedom Project. Notwithstanding G.S. 143-64.31 through 143-64.34 and G.S. 143-135.26, North Carolina Freedom Monument Project, Inc., shall select the designer and consultant for the project.

BIOMEDICAL RESEARCH IMAGING CENTER

SECTION 27.7B.(a) Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-29.5. Biomedical Research Imaging Center.

The General Assembly finds that the construction of the Biomedical Research Imaging Center at the University of North Carolina at Chapel Hill is a vital component of the State's efforts to improve the health and wellness of its citizens. Therefore, there is appropriated from the General Fund to the Board of Governors of The University of North Carolina the following sums for the corresponding fiscal year to be used for the planning and construction of the Biomedical Research Imaging Center:

<u>Fiscal Year</u>	<u>Amount:</u>
<u>2009-2010</u>	<u>\$172,000,000</u>
<u>2010-2011</u>	<u>\$45,000,000"</u>

SECTION 27.7B.(b) It is the intent of the General Assembly that the 2009 Regular Session of the 2009 General Assembly authorize sufficient debt financing to complete the Biomedical Research Imaging Center at the University of North Carolina at Chapel Hill.

SECTION 27.7B.(c) Subsection (a) of this section expires if legislation becomes law on or before June 30, 2009, that authorizes sufficient debt financing to complete the Biomedical Research Imaging Center at the University of North Carolina at Chapel Hill, as requested by the Board of Governors of The University of North Carolina.

TRANSFER OF PRAIRIE RIDGE LAND TO DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

SECTION 27.7C. The land currently allocated to the Department of Administration and used for the Prairie Ridge Ecostation for Wildlife and Learning is hereby reallocated to the Department of Environment and Natural Resources.

SPECIAL INDEBTEDNESS PROJECTS

SECTION 27.8.(a) 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 capital facility costs of the projects described in this subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness:

- (1) In the maximum aggregate principal amount of sixty-nine million dollars (\$69,000,000) to finance the capital facility costs of completing a School of Dentistry building at East Carolina University and no more than 10 satellite dental clinics across the State. No more than a maximum aggregate amount of twenty-one million dollars (\$21,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of sixty million dollars (\$60,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (2) In the maximum aggregate principal amount of thirty-six million eight hundred thousand dollars (\$36,800,000) to finance the capital facility costs of completing a family medicine building at East Carolina University. No more than a maximum aggregate amount of sixteen million six hundred thousand dollars (\$16,600,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
- (3) In the maximum aggregate principal amount of eighteen million dollars (\$18,000,000) to finance the capital facility costs of completing a School of Education building at Elizabeth City State University. No more than a maximum aggregate amount of seven million dollars (\$7,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of fifteen million dollars (\$15,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.

- (4) In the maximum aggregate principal amount of two million four hundred thirty-eight thousand dollars (\$2,438,000) to finance the capital improvement costs of acquiring land and constructing capital facilities for a horse park in Rockingham County for North Carolina Agricultural and Technical State University.
- (5) In the maximum aggregate principal amount of twenty million four hundred ninety thousand dollars (\$20,490,000) to finance the capital facility costs of completing a general classroom building at North Carolina Agricultural and Technical State University. No more than a maximum aggregate amount of seven million dollars (\$7,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
- (6) In the maximum aggregate principal amount of twenty-four million five hundred thousand dollars (\$24,500,000) to finance the capital facility costs of completing a nursing building at North Carolina Central University. No more than a maximum aggregate amount of six million dollars (\$6,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of seventeen million dollars (\$17,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (7) In the maximum aggregate principal amount of eleven million one hundred thousand dollars (\$11,100,000) to finance the capital facility costs of completing a central storage facility at the North Carolina School of the Arts.
- (8) In the maximum aggregate principal amount of twelve million nine hundred thousand dollars (\$12,900,000) to finance the capital facility costs of completing a film school production facility at the North Carolina School of the Arts. No special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of two million dollars (\$2,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010. No more than a maximum aggregate amount of seven million nine hundred thousand dollars (\$7,900,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2011.
- (9) In the maximum aggregate principal amount of one hundred nine million one hundred thousand dollars (\$109,100,000) to finance the capital facility costs of completing the Centennial Campus library at North Carolina State University. No more than a maximum aggregate amount of forty-nine million dollars (\$49,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of sixty-eight million one hundred thousand dollars (\$68,100,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010. No more than a maximum aggregate amount of one hundred million one hundred thousand dollars (\$100,100,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2011.

- (10) In the maximum aggregate principal amount of four million dollars (\$4,000,000) for the capital facility costs of completing the 4-H Campuses at North Carolina State University.
- (11) In the maximum aggregate principal amount of sixty-nine million dollars (\$69,000,000) to finance the capital facility costs of completing a School of Dentistry expansion at the University of North Carolina at Chapel Hill. No special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of twenty-five million dollars (\$25,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010. No more than a maximum aggregate amount of sixty-one million dollars (\$61,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2011.
- (12) In the maximum aggregate principal amount of fifty-seven million two hundred eighteen thousand dollars (\$57,218,000) to finance the capital facility costs of completing the Energy Production Infrastructure Center at the University of North Carolina at Charlotte. No more than a maximum aggregate amount of ten million dollars (\$10,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of thirty-two million two hundred eighteen thousand dollars (\$32,218,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (13) In the maximum aggregate principal amount of forty-two million six hundred seventy thousand dollars (\$42,670,000) to finance the capital facility costs of completing an academic classroom and office building at the University of North Carolina at Greensboro. No more than a maximum aggregate amount of twenty-one million dollars (\$21,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
- (14) In the maximum aggregate principal amount of ten million dollars (\$10,000,000) to finance the capital facility costs of installing fire sprinklers in The University of North Carolina System residence halls.
- (15) In the maximum aggregate principal amount of twenty-five million dollars (\$25,000,000) to finance the capital improvement costs of acquiring State land throughout The University of North Carolina System.
- (16) In the maximum aggregate principal amount of thirty-four million dollars (\$34,000,000) to finance the capital improvement costs of purchasing State judicial facilities located at 901 Corporate Drive, Raleigh, NC, and more particularly described as Phase Two, Tract A of Raleigh Corporate Center consisting of 17.28 acres and as shown on the map recorded in Map book 1987, page 720, and Map book 1990, page 576, of the Wake County Register of Deeds.
- (17) In the maximum aggregate principal amount of forty-five million one hundred seventy thousand dollars (\$45,170,000) to finance the capital facility costs of completing a health care and mental health facility at the North Carolina Correctional Institute for Women. No more than a maximum aggregate amount of twenty-seven million dollars

- (\$27,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
- (18) In the maximum aggregate principal amount of thirteen million ten thousand dollars (\$13,010,000) to finance the capital facility costs of completing a minimum security addition at Scotland Correctional Institution. No more than a maximum aggregate amount of six million dollars (\$6,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of ten million dollars (\$10,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (19) In the maximum aggregate principal amount of eighteen million nine hundred fifty thousand dollars (\$18,950,000) to finance the capital facility costs of completing a medium security addition at Bertie Correctional Institution. No more than a maximum aggregate amount of seven million dollars (\$7,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of fourteen million dollars (\$14,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (20) In the maximum aggregate principal amount of thirteen million ten thousand dollars (\$13,010,000) to finance the capital facility costs of completing a minimum security addition at Tabor Correctional Institution. No more than a maximum aggregate amount of six million dollars (\$6,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of ten million dollars (\$10,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (21) In the maximum aggregate principal amount of eighteen million nine hundred fifty thousand dollars (\$18,950,000) to finance the capital facility costs of completing a medium security addition at Lanesboro Correctional Institution. No more than a maximum aggregate amount of seven million dollars (\$7,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of fourteen million dollars (\$14,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (22) In the maximum aggregate principal amount of two million nine hundred twenty-five thousand dollars (\$2,925,000) to finance the capital facility costs of completing Phase I of the CSS Neuse State Historic Site.
- (23) In the maximum aggregate principal amount of seven million dollars (\$7,000,000) to finance the capital facility costs of completing Port of Morehead City Berth Improvements and Phase I of Port of Wilmington Berth 8 Improvements.
- (24) In the maximum aggregate principal amount of three million seven hundred thousand dollars (\$3,700,000) to finance the capital facility

costs of completing a Southeastern North Carolina Agriculture Center Pavilion.

- (25) In the maximum aggregate principal amount of eight million one hundred thousand dollars (\$8,100,000) to finance the capital facility costs of Department of Agriculture and Consumer Services capital improvements. Sales proceeds shall be allocated between the projects in the following manner:

Project	Allocation of Sales Proceeds
Bathroom and truckshed expansion at The Western North Carolina Farmers' Market	\$650,000
Davis Arena renovation and expansion at The Western North Carolina Agricultural Center	\$7,450,000

- (26) In the maximum aggregate principal amount of four million three hundred three thousand nine hundred forty-four dollars (\$4,303,944) to finance the capital facility costs of completing an oyster hatchery.
- (27) In the maximum aggregate principal amount of two million seven hundred thousand dollars (\$2,700,000) to finance the capital improvement costs of completing an expansion and renovation to the polar bear exhibit at the North Carolina Zoo.
- (28) In the maximum aggregate principal amount of fifty million dollars (\$50,000,000) to finance the capital improvement costs of acquiring State park lands and conservation areas for the Land for Tomorrow initiative in the Department of Environment and Natural Resources. Proceeds shall be allocated to support the conservation priorities of the One North Carolina Naturally program.

SECTION 27.8.(b) Section 1.1 of S.L. 2004-179, as amended by Section 30.3A of S.L. 2005-276 and Section 2.1 of S.L. 2006-146, reads as rewritten:

"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, engineering, architectural, and other consulting services, and construction for the Southeastern North Carolina Nursing Education and Research Center at Fayetteville State University.
10,000,000	10,000,000	Site preparation, engineering, architectural, and other consulting services and the construction of a research building on 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, engineering, architectural, and other consulting services, and construction of a Nursing and Allied Health Building at the University of North Carolina at Pembroke.
10,000,000	10,000,000	To Western Carolina University for land acquisition, site preparation, engineering, architectural, and other consulting services, and construction of a building 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~~11,500,00010,000,000

Land acquisition, site preparation, engineering, architectural, and other consulting services, and construction of a Center for Design Innovation in the Piedmont Triad Research Park to be operated jointly by Winston-Salem State University and the North Carolina School of the Arts.

TOTAL:

~~\$388,000,000~~\$389,500,000 \$265,000,000"

SECTION 27.8.(c) Section 23.12(a) of S.L. 2006-66 reads as rewritten:

"**SECTION 23.12.(a)** In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of ~~forty million dollars (\$40,000,000)~~ forty-five million one hundred thirty thousand dollars (\$45,130,000) to finance the costs of constructing new buildings and pavilions and renovating existing buildings at the North Carolina Museum of Art. 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 costs of constructing and renovating the project described in this subsection."

SECTION 27.8.(d) Section 29.13(a)(11) of S.L. 2007-323 reads as rewritten:

"(11) In the maximum aggregate principal amount of ~~eighteen million seven hundred eight thousand dollars (\$18,708,000)~~ twenty-eight million five hundred seven thousand dollars (\$28,507,000) to finance the capital facility costs of completing a new student activities center at Winston-Salem State University. No more than a maximum aggregate amount of two million dollars (\$2,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of ~~five million dollars (\$5,000,000)~~ fourteen million seven hundred ninety-nine thousand dollars (\$14,799,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009."

SECTION 27.8.(e) This section is effective when it becomes law.

TWO-THIRDS BONDS ACT OF 2008

SECTION 27.9.(a) Short Title. – This section may be cited as the "Two-Thirds Bonds Act of 2008."

SECTION 27.9.(b) Findings and Determinations. – It is the intent and purpose of the General Assembly by this section to provide for the issuance of general obligation bonds or notes of the State in order to provide funds for the cost of State capital facilities.

SECTION 27.9.(c) Definitions. – The following definitions apply in this section unless the context otherwise requires:

- (1) Bonds. – Bonds issued under this section.
- (2) Cost. – The term includes all of the following:
 - a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving State capital facilities, including the acquisition of land, rights-of-way, easements,

- franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a State capital facility.
- b. The cost of engineering, architectural, and other consulting services as may be required.
 - c. Administrative expenses and charges.
 - d. The cost of providing personnel to ensure effective project management.
 - e. The cost of bond insurance, investment contracts, credit enhancement and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants and related costs of bond and note issuance, to the extent and as determined by the State Treasurer.
 - f. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any bond or note or related documents, interest before and during construction or acquisition of a State capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.
 - g. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of any bond or note.
 - h. The cost of reimbursing the State for any payments made for any cost described in this subdivision.
 - i. Any other costs and expenses necessary or incidental to the purposes of this section.
- (3) Credit facility. – An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, such agreement 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 State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.
 - (4) Notes. – Notes issued under this section.
 - (5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne 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.
 - c. Such other provision as the State Treasurer may determine to be consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.
- (6) State. – The State of North Carolina, including any State agency.
 - (7) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

SECTION 27.9.(d) Authorization of Bonds and Notes. – The State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell at one time or from time to time general obligation bonds of the State to be designated "State of North Carolina General Obligation Bonds," with any additional designations as may be determined, or notes of the State, in the aggregate principal amount of one hundred seven million dollars (\$107,000,000), this amount being not in excess of two-thirds of the amount by which the State's outstanding indebtedness was reduced during the biennium ended June 30, 2008, for the purpose of providing funds, with any other available funds, for the purposes authorized by this section.

If the one hundred seven million dollars (\$107,000,000) maximum principal amount of bonds and notes authorized by this section shall be in excess of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the biennium ended June 30, 2008, then the maximum amount of bonds and notes authorized in this section is reduced by such excess.

SECTION 27.9.(e) Uses of Bond and Note Proceeds. – The proceeds of bonds and notes shall be used for financing the cost of State capital facilities as provided in this section. Any additional moneys which may be received by grant from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any State capital facilities authorized by this section may be placed by the State Treasurer in a separate fund or funds and shall be disbursed, to the extent permitted by the terms of the grant, without regard to any limitations imposed by this section.

The proceeds of bonds and notes may be used with any other moneys made available by the General Assembly for the cost of State capital facilities, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this section is ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this section shall be disbursed for the purposes provided in this section upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.

The Office of State Budget and Management shall provide semiannual reports to the Joint Legislative Oversight Committee on Capital Improvements, the Chairs of the Senate and House of Representatives Appropriation Committees, and the Fiscal Research Division on the expenditure of moneys authorized by this section. The reports shall continue until the completion of the projects provided for in this section.

SECTION 27.9.(f) Allocation of Proceeds. – The proceeds of bonds and notes shall be allocated and expended for paying the cost of the Green Square Project, Department of Environment and Natural Resources. The projected allocation may be increased to reflect the availability of other funds, including contingency funds, income earned on the investment of bond and note proceeds, and the proceeds of any grants. The Director of the Budget may, when the Director determines it is in the best interest of the State to do so, use any excess funds, as determined by the Director, to increase the allocation of the project. The Office of State Budget and Management shall provide semiannual reports to the Joint Legislative Oversight Committee on Capital Improvements, the Chairs of the Senate and House of Representatives Appropriation Committees, and the Fiscal Research Division as to any changes in projects and allocations made under this subsection.

SECTION 27.9.(g) Issuance of bonds and notes. –

- (1) Terms and conditions. – Bonds or notes may bear a date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not exceeding 40 years from their date or dates, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than or greater than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.
- (2) Signatures; form and denomination; registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State, or a facsimile of the Seal shall be impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears on bonds or notes cease to be such officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. Bonds or notes may bear the facsimile signatures of persons who at the actual time of the execution of the bonds or notes shall be the proper officers to sign any

- bond or note, although at the date of the bond or note such persons may not have been such officers. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this section.
- (3) Manner of sale; expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than or greater than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.
- (4) Notes; repayment. –
- a. By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:
1. For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds;
 2. For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due;
 3. For the renewal of any loan evidenced by notes authorized in this section;
 4. For the purposes authorized in this section; and
 5. For refunding bonds or notes as authorized in this section.
- b. Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this section. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.
- (5) Refunding bonds and notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant to this section. The refunding bonds and notes may be combined with

any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

- (6) Tax exemption. – Bonds and notes shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance or gift taxes, income taxes on the gain from the transfer of bonds or notes, and franchise taxes. The interest on bonds or notes is not subject to taxation as income.
- (7) Investment eligibility. – Bonds and notes are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Bonds and notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may hereafter be authorized by law.
- (8) Faith and credit. – The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State expressly reserves the right to amend any provision of this section to the extent it does not impair any contractual right of a bond owner.
- (9) Other agreements. – The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts,

credit and liquidity facilities, interest-rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with issuance, incurrence, carrying, or securing of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond or note issue under this section as the State Treasurer considers necessary.

SECTION 27.9.(h) Variable Rate Demand Bonds and Notes. – In fixing the details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

- (1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State;
- (2) Be additionally supported by a credit facility;
- (3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;
- (4) Bear interest at a rate or rates that may vary for any period of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and
- (5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes during the term of such credit facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

SECTION 27.9.(i) Interpretation of Section. –

- (1) Additional method. – The foregoing sections of this section shall be deemed to provide an additional and alternative method for the doing of the things authorized under it and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.
- (2) Statutory references. – References in this section to specific sections or Chapters of the General Statutes or to specific acts are intended to be references to such sections, Chapters, or acts as they may be amended from time to time by the General Assembly.

- (3) Broad construction. – This section, being necessary for the health and welfare of the people of the State, shall be broadly construed to effect the purposes thereof.
- (4) Inconsistent provisions. – Insofar as the provisions of this section are inconsistent with the provisions of any general, special, or local laws, or parts thereof, the provisions of this section shall be controlling.
- (5) Severability. – If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

SECTION 27.9.(j) Effective Date. – This section is effective when it becomes law.

PART XXVIII. TAX LAW CHANGES

IRC UPDATE

SECTION 28.1.(a) G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2007,~~ May 1, 2008, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 28.1.(b) Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after January 1, 2007, that increase North Carolina taxable income for the 2007 taxable year become effective for taxable years beginning on or after January 1, 2008.

SECTION 28.1.(c) G.S. 105-130.5(a)(15) reads as rewritten:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

- (15) ~~The~~ For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005 and thereafter	0%

...."

SECTION 28.1.(d) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

(15a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) of the Code for property placed in service after December 31, 2007, but before January 1, 2009. In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 for property placed in service during that period, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the deduction amount allowed in the 2007 taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage under this subdivision is eighty-five percent (85%).

...."

SECTION 28.1.(e) G.S. 105-134.6(c)(8) reads as rewritten:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

...

(8) ~~The~~ For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005 and thereafter	0%

...."

SECTION 28.1.(f) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

...

(8a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) of the Code for property placed in service after December 31, 2007, but before January 1, 2009. In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 for property placed in service for that period, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the deduction amount allowed in the 2007 taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage under this subdivision is eighty-five percent (85%).

...."

SECTION 28.1.(g) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(21a) In each of the taxpayer's first five taxable years beginning on or after January 1, 2009, an amount equal to twenty percent (20%) of the amount added to taxable income in taxable year 2008 as accelerated depreciation under subdivision (a)(15a) of this section.

...."

SECTION 28.1.(h) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. – The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

...

(17a) In each of the taxpayer's first five taxable years beginning on or after January 1, 2009, an amount equal to twenty percent (20%) of the amount added to taxable income in taxable year 2008 as accelerated depreciation under subdivision (c)(8a) of this section.

...."

SECTION 28.1.(i) Subsections (c) through (h) of this section are effective for taxable years beginning on or after January 1, 2008. The remainder of this section is effective when it becomes law.

EXTEND CREDIT FOR RESEARCH AND DEVELOPMENT

SECTION 28.2.(a) G.S. 105-129.51(b) reads as rewritten:

"(b) This Article is repealed for taxable years beginning on or after January 1, ~~2009-2014.~~"

SECTION 28.2.(b) This section is effective when it becomes law.

EXTEND LOW-INCOME HOUSING CREDIT

SECTION 28.3.(a) G.S. 105-129.45 reads as rewritten:

"§ 105-129.45. Sunset.

This Article is repealed effective January 1, ~~2010~~, 2015. The repeal applies to developments to which federal credits are allocated on or after January 1, ~~2010~~, 2015."

SECTION 28.3.(b) This section is effective when it becomes law.

EXTEND MILL REHABILITATION TAX CREDIT

SECTION 28.4.(a) G.S. 105-129.70 reads as rewritten:

"§ 105-129.70. Definitions.

The following definitions apply in this Article:

- (1) Certified historic structure. – Defined in section 47 of the Code.
- (2) Certified rehabilitation. – Defined in G.S. 105-129.36.
- (3) Cost certification. – The certification obtained by the State Historic Preservation Officer from the taxpayer of the amount of the qualified rehabilitation expenditures or the rehabilitation expenses incurred with respect to a certified rehabilitation of an eligible site.
- (3a) Development tier area. – Defined in G.S. 143B-437.08.
- (4) Eligibility certification. – The certification obtained from the State Historic Preservation Officer that the applicable facility comprises an eligible site. ~~site and that the rehabilitation is a certified rehabilitation.~~
- (5) Eligible site. – A site located in this State that satisfies all of the following conditions:
 - a. It was used as a manufacturing facility or for purposes ancillary to manufacturing, as a warehouse for selling agricultural products, or as a public or private utility.
 - b. It is a certified historic structure or a State-certified historic structure.
 - c. It has been at least eighty percent (80%) vacant for a period of at least two years immediately preceding the date the eligibility certification is made.
 - d. ~~The cost certification documents that the qualified rehabilitation expenditures for a site for which a taxpayer is allowed a credit under section 47 of the Code or the rehabilitation expenses for a site for which the taxpayer is not allowed a credit under section 47 of the Code exceed three million dollars (\$3,000,000) for the site as a whole.~~
- (6) Repealed by Session Laws 2006-252, s. 2.22, effective January 1, 2007.
- (7) Pass-through entity. – Defined in G.S. 105-228.90.
- (8) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.
- (9) Rehabilitation expenses. – Defined in G.S. 105-129.36.
- (10) State-certified historic structure. – Defined in G.S. 105-129.36.
- (11) State Historic Preservation Officer. – Defined in G.S. 105-129.36."

SECTION 28.4.(b) G.S. 105-129.71(a) reads as rewritten:

"(a) Credit. – A taxpayer who is allowed a credit under section 47 of the Code for making qualified rehabilitation expenditures of at least three million dollars (\$3,000,000) with respect to a certified rehabilitation of an eligible site is allowed a credit equal to a percentage of the expenditures that qualify for the federal credit. The credit may be claimed in the year in which the eligible site is placed into service. When

the eligible site is placed into service in two or more phases in different years, the amount of credit that may be claimed in a year is the amount based on the qualified rehabilitation expenditures associated with the phase placed into service during that year. In order to be eligible for a credit allowed by this Article, the taxpayer must provide to the Secretary a copy of the eligibility certification and the cost certification. The amount of the credit is as follows:

- (1) For an eligible site located in a development tier one or two area, determined as of the date of the eligibility certification, the amount of the credit is equal to forty percent (40%) of the qualified rehabilitation expenditures.
- (2) For an eligible site located in a development tier three area, determined as of the date of the eligibility certification, the amount of the credit is equal to thirty percent (30%) of the qualified rehabilitation expenditures."

SECTION 28.4.(c) G.S. 105-129.72(a) reads as rewritten:

"(a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47 of the Code and who makes rehabilitation expenses of at least three million dollars (\$3,000,000) with respect to a certified rehabilitation of an eligible site is allowed a credit equal to a percentage of the rehabilitation expenses. The entire credit may not be taken for the taxable year in which the property is placed in service, but must be taken in five equal installments beginning with the taxable year in which the property is placed in service. When the eligible site is placed into service in two or more phases in different years, the amount of credit that may be claimed in a year is the amount based on the rehabilitation expenses associated with the phase placed into service during that year. In order to be eligible for a credit allowed by this Article, the taxpayer must provide to the Secretary a copy of the eligibility certification and the cost certification. For an eligible site located in a development tier one or two area, determined as of the date of the eligibility certification, the amount of the credit is equal to forty percent (40%) of the rehabilitation expenses. No credit is allowed for a site located in a development tier three area."

SECTION 28.4.(d) G.S. 105-129.75 reads as rewritten:

"§ 105-129.75. **Sunset.**

This Article expires January 1, 2011, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date.~~for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2011.~~"

SECTION 28.4.(e) This section is effective for taxable years beginning on or after January 1, 2008.

EXTEND SUNSET FOR STATE PORTS TAX CREDIT

SECTION 28.5.(a) G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue must publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The number of taxpayers taking a credit allowed in this section.
- (2) The total amount of charges assessed for the taxable year.
- (3) The amount of the charges attributable to imports.
- (4) The amount of the charges attributable to exports.
- ~~(3)~~(5) The total cost to the General Fund of the credits taken."

SECTION 28.5.(b) G.S. 105-130.41(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2009-2014.~~"

SECTION 28.5.(c) G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue must publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The number of taxpayers taking a credit allowed in this section.
- (2) The total amount of charges assessed for the taxable year.
- (3) The amount of the charges attributable to imports.
- (4) The amount of the charges attributable to exports.
- ~~(3)~~(5) The total cost to the General Fund of the credits taken."

SECTION 28.5.(d) G.S. 105-151.22(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2009-2014.~~"

SECTION 28.5.(e) This section is effective when it becomes law.

EXEMPT DISASTER ASSISTANCE DEBIT SALES

SECTION 28.6.(a) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(58) Tangible personal property purchased with a client assistance debit card issued for disaster assistance relief by a State agency or a federal agency or instrumentality."

SECTION 28.6.(b) This section becomes effective August 1, 2008, and applies to purchases made on or after that date.

CLOSE FRANCHISE TAX LOOPHOLES BY REQUIRING A LIMITED LIABILITY COMPANY THAT ELECTS TO BE TREATED AS A CORPORATION AND A CAPTIVE REIT TO PAY FRANCHISE TAX

SECTION 28.7.(a) G.S. 105-114(b)(2) reads as rewritten:

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

...

- (2) Corporation. – A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term includes a limited liability company that elects to be taxed as a ~~C-Corporation~~ corporation under the Code, but does not otherwise include a limited liability company.

...."

SECTION 28.7.(b) G.S. 105-114.1(a)(5) reads as rewritten:

"(5) Noncorporate limited liability company. – A limited liability company that does not elect to be taxed as a ~~C-Corporation~~ corporation under the Code."

SECTION 28.7.(c) G.S. 105-125(b) reads as rewritten:

"(b) Certain Investment Companies. —~~A corporation doing business in North Carolina that qualifies as a "regulated investment company" under section 851 of the Code or as a "real estate investment trust" under section 856 of the Code and elects for federal income tax purposes to be treated as a "regulated investment company" or as a "real estate investment trust,"~~ A corporation doing business in North Carolina that meets one or more of the following conditions may, in determining its basis for franchise tax, deduct the aggregate market value of its investments in the stocks, bonds, debentures, or other securities or evidences of debt of other corporations, partnerships, individuals, municipalities, governmental agencies, or ~~governments~~ governments:

- (1) A regulated investment company. — A regulated investment company is an entity that qualifies as a regulated investment company under section 851 of the Code.
- (2) A REIT, unless the REIT is a captive REIT. — The terms 'REIT' and 'captive REIT' have the same meanings as defined in G.S. 105-130.12."

SECTION 28.7.(d) This section is effective for taxable years beginning on or after January 1, 2009.

PUBLICLY TRADED PARTNERSHIPS**SECTION 28.8.(a)** G.S. 105-154 reads as rewritten:**"§ 105-154. Information at the source returns.**

- (a) Repealed by Session Laws 1993, c. 354, s. 14.
- (b) Information Returns of Payers. — A person who is a resident of this State, has a place of business in this State, or has an employee, an agent, or another representative in any capacity in this State shall file an information return as required by the Secretary if the person directly or indirectly pays or controls the payment of any income to any taxpayer. The return shall contain all information required by the Secretary. The filing of any return in compliance with this section by a foreign corporation is not evidence that the corporation is doing business in this State.
- (c) Information Returns of Partnerships. — A partnership doing business in this State and required to file a return under the Code shall file an information return with the Secretary. A partnership that the Secretary believes to be doing business in this State and to be required to file a return under the Code shall file an information return when requested to do so by the Secretary. The information return shall contain all information required by the Secretary. It shall state specifically the items of the partnership's gross income, the deductions allowed under the Code, and the adjustments required by this Part. The information return shall also include the name and address of each person who would be entitled to share in the partnership's net income, if distributable, and the amount each person's distributive share would be. The information return shall specify the part of each person's distributive share of the net income that represents corporation dividends. The information return shall be signed by one of the partners under affirmation in the form required by the Secretary.

A partnership that files an information return under this subsection shall furnish to each person who would be entitled to share in the partnership's net income, if distributable, any information necessary for that person to properly file a State income tax return. The information shall be in the form prescribed by the Secretary and must be furnished on or before the due date of the information return.

(d) **Payment of Tax on Behalf of Nonresident Owner or Partner.** – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business shall report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business shall pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under G.S. 105-134.2(a)(3). The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager shall include a copy of the affirmation with the report required by this subsection.

(e) **Publicly Traded Partnership.** – The information return and payment requirements under this section are modified as follows for a publicly traded partnership that is described in section 7704(c) of the Code:

- (1) The information return required under subsection (c) of this section is limited to partners whose distributive share of the partnership's net income during the tax year was more than five hundred dollars (\$500.00).
- (2) The payment requirements under subsection (d) of this section do not apply."

SECTION 28.8.(b) This section is effective for taxable years beginning on or after January 1, 2008.

INCREASE EARNED INCOME TAX CREDIT TO FIVE PERCENT

SECTION 28.9.(a) G.S. 105-151.31(a) reads as rewritten:

"(a) **Credit.** – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to ~~three and one-half percent (3.5%)~~ five percent (5%) of the amount of credit the individual qualified for under section 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate."

SECTION 28.9.(b) This section is effective for taxable years beginning on or after January 1, 2009.

EXTEND SUNSET FOR SMALL BUSINESS EMPLOYEE HEALTH BENEFITS

SECTION 28.9A.(a) G.S. 105-129.16E(d) reads as rewritten:

"(d) **Sunset.** – This section expires for taxable years beginning on or after January 1, ~~2009-2010.~~"

SECTION 28.9A.(b) This section is effective when it becomes law.

PROVIDE A PROPERTY TAX EXCLUSION FOR HONORABLY DISCHARGED DISABLED VETERANS AND THEIR SURVIVING SPOUSES

SECTION 28.11.(a) G.S. 105-275(21) is repealed.

SECTION 28.11.(b) Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-277.1C. Disabled veteran property tax homestead exclusion.

(a) Exclusion. – A permanent residence owned and occupied by an owner who is a North Carolina resident and who is an honorably discharged disabled veteran or the unmarried surviving spouse of an honorably discharged disabled veteran is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section. The first forty-five thousand dollars (\$45,000) of appraised value of the residence is excluded from taxation. An owner who receives an exclusion under this section may not receive other property tax relief.

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

- (1) Disabled veteran. – A veteran who, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, receives benefits under 38 U.S.C. § 2101 or has a veteran's disability certification.
- (2) Owner. – Defined in G.S. 105-277.1.
- (3) Permanent residence. – Defined in G.S. 105-277.1.
- (4) Property tax relief. – Defined in G.S. 105-277.1.
- (5) Veteran. – A veteran of any branch of the Armed Forces of the United States.
- (6) Veteran's disability certification. – A certification by the United States Department of Veterans Affairs or another federal agency that a veteran has a permanent total disability that is service-connected.

(c) Temporary Absence. – An owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(d) Ownership by Spouses. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the requirements of this section.

(e) Other Multiple Owners. – This subsection applies to co-owners who are not husband and wife. Each co-owner of a permanent residence must apply separately for the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and none of the co-owners qualifies for the exclusion allowed under G.S. 105-277.1, each co-owner is entitled to the full amount of the exclusion allowed under this section. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and one or more of the co-owners qualify for the exclusion allowed under G.S. 105-277.1, each co-owner who qualifies for the exclusion allowed under this section is entitled to the full amount of the exclusion. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not

exceed the greater of the exclusion allowed under this section and the exclusion allowed under G.S. 105-277.1.

(f) Application. – An application for the exclusion allowed under this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the exclusion is claimed. An applicant for an exclusion under this section must establish eligibility for the exclusion by providing a copy of the veteran's disability certification or evidence of benefits received under 38 U.S.C. § 2101."

SECTION 28.11.(c) G.S. 105-277.1(a) reads as rewritten:

"(a) Exclusion. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable in accordance with this section. The amount of the appraised value of the residence equal to the exclusion amount is excluded from taxation. The exclusion amount is the greater of twenty five thousand dollars (\$25,000) or fifty percent (50%) of the appraised value of the residence. An owner who receives an exclusion under this section may not receive other property tax relief.

A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

- (1) Is at least 65 years of age or totally and permanently disabled.
- (2) Has an income for the preceding calendar year of not more than the income eligibility limit.
- (3) Is a North Carolina resident."

SECTION 28.11.(d) G.S. 105-277.1(b)(3a) reads as rewritten:

"(3a) Property tax relief. – The property tax homestead exclusion provided in this ~~section or section~~, the property tax homestead circuit breaker provided in ~~G.S. 105-277.1B~~, G.S. 105-277.1B, or the disabled veteran property tax homestead exclusion provided in G.S. 105-277.1C."

SECTION 28.11.(e) G.S. 105-277.1(d) reads as rewritten:

"(d) ~~Multiple Ownership. Ownership by Spouses.~~ – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. ~~When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co owner may be claimed by any other co owner and in no event may the total exclusion allowed for a permanent residence exceed the exclusion amount provided in this section.~~ section."

SECTION 28.11.(f) G.S. 105-277.1(e) reads as rewritten:

"(e) ~~Other Multiple Owners.~~ – ~~An owner who qualifies for both kinds of property tax relief may elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the property tax homestead exclusion provided in this section. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the property tax homestead circuit breaker in order for the property tax homestead circuit breaker to be allowed instead of the property tax homestead exclusion. This subsection applies to co-owners who are not husband and wife. Each co-owner of a permanent residence must apply separately for the exclusion allowed under this section.~~

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and none of the co-owners qualifies for the exclusion allowed under G.S. 105-277.1C, each co-owner is entitled to the full amount of the exclusion allowed under this section. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and one or more of the co-owners qualify for the exclusion allowed under G.S. 105-277.1C, each co-owner who qualifies for the exclusion under this section is entitled to the full amount of the exclusion. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the greater of the exclusion allowed under this section and the exclusion allowed under G.S. 105-277.1C."

SECTION 28.11.(g) G.S. 105-282.1(a)(2)c. reads as rewritten:

"c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.1C, 105-277.10, 105-277.13, 105-278."

SECTION 28.11.(h) G.S. 105-277.1C, as enacted by S.L. 2008-35, is recodified as G.S. 105-277.1D. The Revisor of Statutes is authorized to correct any reference or citation in the General Statutes to any portion of S.L. 2008-35 that is recodified or amended by this section by deleting incorrect references and substituting correct references.

SECTION 28.11.(i) The catch line of G.S. 105-277.1 reads as rewritten:

"§ **105-277.1. ~~Property~~Elderly or disabled property tax homestead exclusion.**"

SECTION 28.11.(j) Subsection (h) of this section is effective when it becomes law. The remainder of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2009.

SALES TAX HOLIDAY FOR CERTAIN ENERGY STAR RATED APPLIANCES

SECTION 28.12.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"§ **105-164.3. Definitions.**

The following definitions apply in this Article:

...

(8g) Energy Star qualified product. – A product that meets the energy efficient guidelines set by the United States Environmental Protection Agency and the United States Department of Energy and is authorized to carry the Energy Star label."

SECTION 28.12.(b) Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ **105-164.13D. Sales and use tax holiday for Energy Star qualified products.**

(a) The taxes imposed by this Article do not apply to the Energy Star qualified products listed in this section if sold between 12:01 A.M. on the first Friday of November and 11:59 P.M. the following Sunday. The qualified products are:

- (1) Clothes washers.
- (2) Freezers and refrigerators.

- (3) Central air conditioners and room air conditioners.
- (4) Air-source heat pumps and geothermal heat pumps.
- (5) Ceiling fans.
- (6) Dehumidifiers.
- (7) Programmable thermostats.
- (b) The exemption allowed by this section does not apply to the following:
 - (1) The sale of a product for use in a trade or business.
 - (2) The rental of a product."

SECTION 28.12.(c) G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13, the State sales and use tax ~~holiday~~holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 apply to the local sales and use tax authorized to be levied and imposed under this Article. Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than three years after the due date are barred."

SECTION 28.12.(d) The second paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws reads as rewritten:

"The exemptions and exclusions contained in G.S. 105-164.13 and the sales and use tax ~~holiday~~holidays contained in G.S. 105-164.13C and G.S. 105-164.13D apply with equal force and like manner to the local sales tax authorized to be imposed and levied under this division. The county shall have no authority, with respect to the local sales and use tax imposed under this division, to change, alter, add, or delete any exemptions or exclusions contained under G.S. 105-164.13."

SECTION 28.12.(e) This section is effective when it becomes law and applies to sales made on or after that date.

SET INSURANCE REGULATORY FEE

SECTION 28.13.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2008 calendar year.

SECTION 28.13.(b) This section is effective when it becomes law.

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 28.14.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-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, 2008.

SECTION 28.14.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2008-2009 fiscal year is two hundred thousand dollars (\$200,000).

SECTION 28.14.(c) This section becomes effective July 1, 2008.

SMALL BUSINESS PROTECTION ACT

SECTION 28.16.(a) The General Assembly makes the following findings:

- (1) The following areas of the sales and use tax laws are the areas for which the Department of Revenue receives the most questions from taxpayers:
 - a. The rate of tax that applies to food and prepared food.
 - b. The distinction between a retailer and a performance contractor.
 - c. The distinction between a service that is necessary to complete the sale of tangible personal property, and therefore taxable, and a service that is incidental to the sale of tangible personal property, and therefore not taxable.
 - d. The determination of whether a person is a manufacturer.
- (2) These areas of the sales and use tax laws have been the subject of legislative changes in recent years.
- (3) Small businesses have fewer resources to devote to resolving the complexities of the sales and use tax laws than large businesses have and, therefore, may be at a disadvantage with respect to compliance issues in complex areas and changing areas.
- (4) Assessments against a small business for inadvertent noncompliance in these complex areas may threaten the viability of the small business.
- (5) The sales and use tax laws are not intended to place the viability of small businesses in jeopardy.
- (6) A study of these complex areas is needed to determine how to make the laws in these areas clearer and to reduce the compliance burden.

SECTION 28.16.(b) Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-244.2. Reduction of certain sales tax assessments against small businesses.

(a) Reduction. – The Secretary must reduce an assessment against a small business for State and local sales and use taxes and waive any penalties imposed as part of the assessment when the assessment is made as the result of an audit of the small business by the Department and all of the following apply:

- (1) The gross receipts of the business for the calendar year preceding the year in which the audit period begins, combined with the gross receipts of all related persons as defined in G.S. 105-163.010, do not exceed one million eight hundred thousand dollars (\$1,800,000).**
- (2) The business remitted to the Department all the sales and use taxes it collected during the audit period.**
- (3) The business had not been told by the Department in a prior audit to collect sales and use taxes in the circumstance that is the basis of the**

assessment, as reflected in the written audit comments of the prior audit.

- (4) The business made a good faith effort to comply with the sales and use tax laws and the assessment is based on the incorrect application of one of the following complex areas of these laws:
 - a. The rate of tax that applies to prepared food.
 - b. The distinction between a retailer and a performance contractor.
 - c. The distinction between a service that is necessary to complete the sale of tangible personal property, and is therefore taxable, and a service that is incidental to the sale of tangible personal property, and is therefore not taxable.
 - d. The determination of whether a person is a manufacturer.

(b) Amount. – The amount by which a sales and use tax assessment against a small business must be reduced under this section is a percentage of the assessment. The percentage is determined by the average monthly gross receipts of the business for the calendar year for which annual gross receipts are determined under subdivision (a)(1) of this section. A reduction of an assessment under this section and the waiver of penalties imposed as part of the assessment apply only to the amount of an assessment attributable to the incorrect application of one of the complex areas of the law listed in subdivision (a)(4) of this section.

The following table sets out the applicable percentage reductions of an assessment:

<u>Average Monthly Gross Receipts of Business Over</u>	<u>Average Monthly Gross Receipts Up To</u>	<u>Percentage Reduction</u>
<u>-0-</u>	<u>\$50,000</u>	<u>98%</u>
<u>\$50,000</u>	<u>\$100,000</u>	<u>95%</u>
<u>\$100,000</u>	<u>\$150,000</u>	<u>90%</u>

- (c) Application. – This section applies to the following:
 - (1) A proposed assessment that is pending on July 15, 2008.
 - (2) An assessment that becomes collectible under G.S. 105-241.22 on or after July 15, 2008.
 - (3) An assessment that meets all of the following conditions:
 - a. It became collectible under G.S. 105-241.22 before July 15, 2008, or was identified in a notice of final assessment issued under former G.S. 105-241.1 before July 15, 2008.
 - b. It is not paid as of July 15, 2008.
 - c. If it had been paid within six months after it became collectible under G.S. 105-241.22 or was identified in a notice of final assessment issued under former G.S. 105-241.1, a timely claim for refund could be filed under G.S. 105-241.7 for a refund of the assessment.
 - (4) A claim for refund filed in accordance with G.S. 105-241.7 for a refund of an assessment.

(d) Expiration. – This section expires January 1, 2010. The expiration applies to an assessment that becomes collectible under G.S. 105-241.22 on or after the expiration date and to a claim for refund filed on or after the expiration date for a refund of an assessment paid before the expiration date."

SECTION 28.16.(c) Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-258.2. Taxpayer conversations.

(a) Scope. – This section applies to a conversation that is conducted by telephone or in person, is between a taxpayer and an employee of the Department, and occurs at an office of the Department if the conversation is in person. It does not apply to a conversation that occurs at a presentation, a conference, or another forum.

(b) Documentation. – The Secretary must document advice given to a taxpayer in a conversation with that taxpayer when the taxpayer gives the Secretary the taxpayer's identifying information, asks the Secretary about the application of a tax to the taxpayer in specific circumstances, and requests that the Secretary document the advice in the taxpayer's records. The documentation may be an entry in the account record of the taxpayer or by another method determined by the Secretary. The documentation must set out the date of the conversation, the question asked, and the advice given."

SECTION 28.16.(d) G.S. 105-258.2, as enacted by this act, is amended by adding a new subsection to read:

"(c) Sales Tax Inquiries. – The Secretary must document advice given in a conversation with a person who is not registered as a retailer or a wholesale merchant under Article 5 of this Chapter when the person gives the Secretary the person's name and address, describes a business in which the person is engaged, asks if the person is required to be registered under Article 5 of this Chapter, and requests that the Secretary document the advice. The Secretary must keep a record of the person's inquiry that sets out the date of the conversation, the person making the inquiry, the business described in the conversation, and the advice given."

SECTION 28.16.(e) G.S. 105-264 reads as rewritten:

"§ 105-264. **Effect of Secretary's interpretation of revenue laws.**

(a) Interpretation. – It is the duty of the Secretary to interpret all laws administered by the Secretary. The Secretary's interpretation of these laws shall be consistent with the applicable ~~rules.~~ rules. An interpretation by the Secretary is prima facie correct. When the Secretary interprets a law by adopting a rule or publishing a bulletin or directive on the law, the interpretation is a protection to the officers and taxpayers affected by the interpretation, and taxpayers are entitled to rely upon the interpretation. If the Secretary changes an interpretation, a taxpayer who relied on it before it was changed is not liable for any penalty or additional assessment on any tax that accrued before the interpretation was changed and was not paid by reason of reliance upon the interpretation.

(b) Advice. – If a taxpayer requests ~~in writing~~ specific advice from the Department and receives erroneous advice in ~~response~~ erroneous written advice, response, the taxpayer is not liable for any penalty or additional assessment attributable to the erroneous advice furnished by the Department to the extent that the following conditions are all satisfied:

- (1) ~~the~~ The advice was reasonably relied upon by the ~~taxpayer and~~ taxpayer.
- (2) The penalty or additional assessment did not result from the taxpayer's failure to provide adequate or accurate information.
- (3) The Department provided the advice in writing or the Department's records establish that the Department provided erroneous verbal advice.

(c) Revised Interpretations. – This section does not prevent the Secretary from changing an interpretation and it does not prevent a change in an interpretation from applying on and after the effective date of the change."

SECTION 28.16.(f) G.S. 105-237.1 reads as rewritten:

"§ 105-237.1. **Compromise of liability.**

(a) ~~Authority. – The Secretary of Revenue, with the approval of the Attorney General, is authorized to compromise the amount of liability of any taxpayer for taxes due under Subchapter I, V, or VIII of this Chapter or under Article 3 of Chapter 119 of the General Statutes and to accept in full settlement of the liability a lesser amount than that asserted to be due when in the opinion of the Secretary and the Attorney General the compromise settlement is in the best interest of the State. When made other than in the course of litigation in the courts of the State on an appeal from an administrative determination or in a civil action brought to recover from the Secretary, the basis for the compromise must also conform to the conditions set out in this section. The compromise settlement may be made only after a final administrative or judicial determination of the liability of the taxpayer.~~

~~A compromise settlement may be made only if one or more of the following findings is made:~~may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

- (1) There is a reasonable doubt as to the amount of the liability of the taxpayer under the law and the facts.
- (2) The taxpayer is insolvent and the Secretary probably could not otherwise collect an amount equal to or in excess of the amount offered in compromise. A taxpayer is considered insolvent only in one of the following circumstances:
 - a. It is plain and indisputable that the taxpayer is clearly insolvent and will remain so in the reasonable future.
 - b. The taxpayer has been determined to be insolvent in a judicial proceeding.
- (3) Collection of a greater amount than that offered in compromise is improbable, and the funds or a substantial portion of the funds offered in the settlement come from sources from which the Secretary could not otherwise collect.
- (4) A federal tax assessment arising out of the same facts has been compromised with the federal government on the same or a similar basis as that proposed to the State and the Secretary could probably not collect an amount equal to or in excess of that offered in compromise.
- (5) Collection of a greater amount than that offered in compromise would produce an unjust result under the circumstances.

~~For the purposes of this section a taxpayer may be considered insolvent only if (i) there is an established status of insolvency by either a judicial declaration of a status necessarily or ordinarily involving insolvency or by a legal proceeding in which the insolvency of the taxpayer would ordinarily be determined or made evident or (ii) it is plain and indisputable that the taxpayer is clearly insolvent and will remain so in the reasonable future. Whenever a compromise is made by the Secretary pursuant to this section and the unpaid amount of the tax assessed is one hundred dollars (\$100.00) or more, the Secretary shall place on file in the office of the Secretary a written opinion, signed by the Secretary and the Attorney General, setting forth the amount of tax or additional tax assessed, the amount actually paid in accordance with the terms of the compromise, and a summary of the facts and reasons upon which acceptance of the compromise is based.~~

(b) Written Statement. —Whenever an assessment of taxes or additional taxes is based upon an action of the federal government in making an assessment of taxes and the federal assessment is subsequently settled, compromised or adjusted, the Secretary may, in his discretion, settle, compromise or adjust the State's tax assessment upon the same basis as the federal settlement, compromise or adjustment. When the Secretary compromises a tax liability under this section and the amount of the liability is at least one thousand dollars (\$1,000), the Secretary must make a written statement that sets out the amount of the liability, the amount accepted under the compromise, a summary of the facts concerning the liability, and the findings on which the compromise is based. The Secretary must sign the statement and keep a record of the statement. If the compromise settles a dispute that is in litigation, the Secretary must obtain the approval of the Attorney General before accepting the compromise, and the Attorney General must sign the statement describing the compromise."

SECTION 28.16.(g) The Department of Revenue is directed to establish a plan to record telephone calls received at the Department's Taxpayer Assistance Center and to implement this plan by July 1, 2010. The plan shall, at a minimum, provide for recording calls for the purpose of training and evaluation with respect to customer service and quality control measures. The Department may retain up to seven hundred thousand dollars (\$700,000) of the amount collected under Article 5 of Chapter 105 of the General Statutes in fiscal year 2008-2009 for this purpose, and this amount is appropriated to the Department for this purpose. Amounts not used in fiscal year 2008-2009 for this purpose do not revert but remain available to the Department for this purpose until the system is implemented.

SECTION 28.16.(h) The Revenue Laws Study Committee shall study the issues listed in this Section and report on the study, including any recommendations or legislative proposals, to the 2009 General Assembly.

- (1) The taxation of services necessary to complete the sale of tangible personal property and standards for distinguishing between a service that is taxable as one that is necessary to complete the sale and a service that is incidental to the sale of tangible personal property.
- (2) The applicability of the sales and use tax to performance contracts and standards for distinguishing between performance contractors and retailers.
- (3) The distinction between food and prepared food under the sales and use tax laws and whether to eliminate this distinction by applying a uniform, revenue-neutral rate to all food.

SECTION 28.16.(i) The Department of Revenue shall make a report to the Revenue Laws Study Committee on customer service improvement initiatives conducted by the Department. The report is due prior to the convening of the 2009 General Assembly and shall address, at a minimum, the following issues:

- (1) A review of the Department's efforts to ensure that inquiries on complicated tax matters are handled or reviewed by appropriate personnel within the Department.
- (2) A review of the Department's efforts to provide accurate and timely information regarding changes in tax law resulting from legislative changes, court decisions, or revised interpretations.
- (3) A review of the Department's outreach efforts designed to assist taxpayers, particularly small business taxpayers, in complying with the State's tax laws.

- (4) A review of the Department's efforts to ensure that taxpayers are informed of their right to request written advice from the Department upon which they may reasonably rely.
- (5) A review of the Department's plan to record telephone calls at the Department's Taxpayer Assistance Center.

SECTION 28.16.(j) Subsection (c) of this section becomes effective January 1, 2009. Subsection (d) of this section becomes effective July 1, 2009. The remainder of this section is effective when it becomes law.

MODIFY ESTATE TAX LAW

SECTION 28.17.(a) G.S. 105-32.2(b) reads as rewritten:

"(b) Amount. – The amount of the estate tax imposed by this section is the amount of the state death tax credit that, as of December 31, 2001, would have been allowed under section 2011 of the Code against the federal taxable estate. The tax may not exceed the amount of federal estate tax due under the Code. The federal taxable estate and the amount of the federal estate tax due are determined without taking into account the deduction for state death taxes allowed under Section 2058 of the Code and the credits allowed under sections 2011 through 2015 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 28.17.(b) This section is effective when it becomes law and applies retroactively to the estates of decedents for which the statute of limitations for claiming a refund had not expired as of December 28, 2007. A personal representative of an estate for which the statute of limitations had not expired as of December 28, 2007, may file a claim for refund under G.S. 105-241.7.

REPEAL GIFT TAX LAW

SECTION 28.18.(a) Article 6 of Chapter 105 of the General Statutes is repealed.

SECTION 28.18.(b) G.S. 105-236(a)(5) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(5) Negligence. –

- a. Finding of negligence. – For negligent failure to comply with any of the provisions to which this Article applies, or rules issued pursuant thereto, without intent to defraud, the Secretary shall assess a penalty equal to ten percent (10%) of the deficiency due to the negligence.

- b. Large individual income tax deficiency. – In the case of individual income tax, if a taxpayer understates taxable income, by any means, by an amount equal to twenty-five percent (25%) or more of gross income, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency. For purposes of this subdivision, "gross income" means gross income as defined in section 61 of the Code.
- c. Other large tax deficiency. – In the case of a tax other than individual income tax, if a taxpayer understates tax liability by twenty-five percent (25%) or more, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency.
- d. No double penalty. – If a penalty is assessed under subdivision (6) of this section, no additional penalty for negligence shall be assessed with respect to the same deficiency.
- e. ~~Inheritance and gift~~ Estate tax deficiencies. – This subdivision does not apply to ~~inheritance, estate, and gift~~ estate tax deficiencies that are the result of valuation understatements."

SECTION 28.18.(c) G.S. 105-263 reads as rewritten:

"§ 105-263. Extensions of time for filing a report or return.

The Secretary may extend the time in which a person must file a report or return with the Secretary. To obtain an extension of time for filing a report or return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax ~~return, return or~~ an income tax ~~return, or a gift tax~~ return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing a report or any return other than a franchise tax ~~return, return or~~ an income tax ~~return, or a gift tax~~ return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a report or return extends the time for paying the tax expected to be due with the report or return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the report or return to the date the tax is paid."

SECTION 28.18.(d) G.S. 105-241.10 reads as rewritten:

"§ 105-241.10. Limit on refunds and assessments after a federal determination.

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by G.S. 105-32.8, 105-130.20, 105-159, 105-160.8, or 105-163.6A, ~~or 105-197.1~~, as appropriate. The limitations are:

- (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.
- (2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

SECTION 28.18.(e) This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute repealed by this act

before the effective date of its repeal; nor does it affect the right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

SECTION 28.18.(f) This section becomes effective January 1, 2009, and applies to gifts made on or after that date.

STATE SALES TAX EXEMPTION FOR BAKED GOODS SOLD BY ARTISAN BAKERIES

SECTION 28.19.(a) G.S. 105-164.13B(a) is amended by adding a new subdivision to read:

"(a) State Exemption. – Food is exempt from the taxes imposed by this Article unless the food is included in one of the subdivisions in this subsection. The following food items are subject to tax:

- (1) Repealed by Session Laws 2005-276, s. 33.10, effective October 1, 2005.
- (2) Dietary supplements.
- (3) Food sold through a vending machine.
- (4) Prepared food, other than bakery items sold without eating utensils by an artisan bakery. The term 'bakery item' includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the following requirements:
 - a. It derives over eighty percent (80%) of its gross receipts from bakery items.
 - b. Its annual gross receipts, combined with the gross receipts of all related persons as defined in G.S. 105-163.010, do not exceed one million eight hundred thousand dollars (\$1,800,000).
- (5) Soft drinks.
- (6) Repealed by Session Laws 2003-284, s. 45.6B, effective January 1, 2004.
- (7) Candy."

SECTION 28.19.(b) This section becomes effective January 1, 2009, and applies to sales made on or after that date.

PROHIBIT TAX ON INTERIOR DESIGN SERVICES

SECTION 28.20.(a) G.S. 105-164.13 is amended by adding a new subdivision to read:

"§ 105-164.13. **Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

- ...
- (59) Interior design services provided in conjunction with the sale of tangible personal property."

SECTION 28.20.(b) This section becomes effective August 1, 2008.

1% \$80 EXCISE TAX ON MACHINERY REFURBISHERS

SECTION 28.21.(a) G.S. 105-187.51B reads as rewritten:

"§ 105-187.51B. Tax imposed on certain ~~reeyellers and~~ recyclers, research and development ~~companies.~~ companies, and industrial machinery refurbishing companies.

- (a) Tax. – A privilege tax is imposed on the following:
- (1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:
 - a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.
 - b. Port and dock facilities.
 - c. Rail equipment.
 - d. Material handling equipment.
 - (2) A research and development company in the physical, engineering, and life sciences that is included in industry 54171 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:
 - a. Is capitalized by the company for tax purposes under the Code.
 - b. Is used by the company in the research and development of tangible personal property.
 - c. Would be considered mill machinery or mill machinery parts or accessories under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.
 - (3) A software publishing company that is included in the industry group 5112 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:
 - a. Is capitalized by the company for tax purposes under the Code.
 - b. Is used by the company in the research and development of tangible personal property.
 - c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.
 - (4) An industrial machinery refurbishing company that is included in industry group 811310 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:
 - a. Is capitalized by the company for tax purposes under the Code.
 - b. Is used by the company in repairing or refurbishing tangible personal property.
 - c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used by the industry or plant to manufacture tangible personal property.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars (\$80.00) per article."

SECTION 28.21.(b) This section becomes effective July 1, 2008, and applies to purchases made on or after that date.

CLARIFY 501(c)(3) SALES TAX REFUND

SECTION 28.22.(a) G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity:

- (1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes.
- (2) ~~Educational institutions not operated for profit.~~ An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
 - a. Community Improvement and Capacity Building.
 - b. Public and Societal Benefit.
 - c. Mutual and Membership Benefit.
- (3) ~~Churches, orphanages, and other charitable or religious institutions and organizations not operated for profit.~~
- (4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.

Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity.

A hospital that is not allowed a refund under this subsection of sales and use taxes paid on its direct purchases of tangible personal property is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work.

The refunds allowed under this subsection for certain nonprofit entities and for medicines and drugs purchased by hospitals do not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c).

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 for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15."

SECTION 28.22.(b) This section becomes effective July 1, 2008, and applies to purchases made on or after that date.

EXTEND AVIATION FUEL REFUNDS

SECTION 28.23.(a) G.S. 105-164.14(a1) reads as rewritten:

"(a1) Passenger Plane Maximum. – An interstate passenger air carrier is allowed a refund of the net amount of sales and use tax paid by it in this State on fuel during a calendar year in excess of two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and use tax paid" is the amount paid less the refund allowed under

subsection (a) of this section. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the calendar year for which the refund is claimed. The refund allowed by this subsection is in addition to the refund allowed in subsection (a) of this section. This subsection is repealed for purchases made on or after January 1, ~~2009-2011.~~"

SECTION 28.23.(b) G.S. 105-164.14(l) reads as rewritten:

"(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For the purposes of this subsection, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A request for a refund must be in writing and must include any information and documentation the Secretary requires. 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. This subsection is repealed for purchases made on or after ~~January 1, 2009-January 1, 2011.~~"

SECTION 28.23.(c) This section is effective when it becomes law.

EXPAND FILM INDUSTRY CREDIT AND EXTEND SUNSET

SECTION 28.24.(a) G.S. 105-130.47 reads as rewritten:

"§ **105-130.47. Credit for qualifying expenses of a production company.**

(a) Definitions. – The following definitions apply in this section:

- (1) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars (\$1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.
- (2) Live sporting event. – A scheduled sporting competition, game, or race that is not originated by a production company, but originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. A live sporting event does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.
- (3) Production company. – Defined in G.S. 105-164.3.
- (4) Qualifying expenses. – The sum of the following amounts spent in this State by a production company in connection with a production, less the amount in excess of one million dollars (\$1,000,000) paid to a highly compensated individual:
 - a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars (\$25,000) or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.

- b. Compensation and wages on which withholding payments are remitted to the Department of Revenue under Article 4A of this Chapter.
- c. The cost of production-related insurance coverage obtained on the production. Expenses for insurance coverage purchased from a related member are not qualifying expenses.

(5) Related member. – Defined in G.S. 105-130.7A.

(b) Credit. – A taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of the production company's qualifying expenses. For the purposes of this section, in the case of an episodic television series, an entire season of episodes is one production. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year.

(c) 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 section 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 section. 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 section does not affect the entity's payment of tax on behalf of its owners.

(d) Return. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the production activities are completed. The return must state the name of the production, a description of the production, and a detailed accounting of the qualifying expenses with respect to which a credit is claimed.

(e) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(f) Limitations. – The amount of credit allowed under this section with respect to a production that is a feature film may not exceed seven million five hundred thousand dollars (\$7,500,000). No credit is allowed under this section for any production that satisfies one of the following conditions:

- (1) It is political advertising.
- (2) It is a television production of a news program or live sporting event.
- (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- (4) It is a radio production.

(g) Substantiation. – A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Secretary of Revenue. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The Secretary may consult with the North Carolina Film Office of the Department of Commerce and the regional film commissions in order to determine the amount of qualifying expenses.

(h) Report. – The Department of Revenue must publish by May 1 of each year the following information, itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The location of sites used in a production for which a credit was claimed.
 - (2) The qualifying expenses for which a credit was claimed, classified by whether the expenses were for goods, services, or compensation paid by the production company.
 - (3) The number of people employed in the State with respect to credits claimed.
 - (4) The total cost to the General Fund of the credits claimed.
- (i) Repealed by Session Laws 2006-220, s. 2, effective for taxable years beginning on or after January 1, 2007.
- (j) ~~Sunset.~~—NC Film Office. – To claim a credit under this section, a taxpayer must notify the Division of Tourism, Film, and Sports Development in the Department of Commerce of the taxpayer's intent to claim the production tax credit. The notification must include the title of the production, the name of the production company, a financial contact for the production company, the proposed dates on which the production company plans to begin filming the production, and any other information required by the Division. For productions that have production credits, a taxpayer claiming a credit under this section must acknowledge in the production credits both the North Carolina Film Office and the regional film office responsible for the geographic area in which the filming of the production occurred.
- (k) ~~Sunset.~~ – This section is repealed for qualifying expenses occurring on or after January 1, 2010-2014."

SECTION 28.24.(b) G.S. 105-151.29 reads as rewritten:

"§ 105-151.29. Credit for qualifying expenses of a production company.

- (a) Definitions. – The following definitions apply in this section:
- (1) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars (\$1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.
 - (2) Live sporting event. – A scheduled sporting competition, game, or race that is not originated by a production company, but originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. A live sporting event does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.
 - (3) Production company. – Defined in G.S. 105-164.3.
 - (4) Qualifying expenses. – The sum of the following amounts spent in this State by a production company in connection with a production, less the amount paid in excess of one million dollars (\$1,000,000) to a highly compensated individual:
 - a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars (\$25,000) or more, the amount included in qualifying expenses is the

purchase price less the fair market value of the good at the time the production is completed.

b. Compensation and wages on which withholding payments are remitted to the Department of Revenue under Article 4A of this Chapter.

c. The cost of production-related insurance coverage obtained on the production. Expenses for insurance coverage purchased from a related member are not qualifying expenses.

(5) Related member. – Defined in G.S. 105-130.7A.

(b) Credit. – A taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of the production company's qualifying expenses. For the purposes of this section, in the case of an episodic television series, an entire season of episodes is one production. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year.

(c) 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 section 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 section. 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 section does not affect the entity's payment of tax on behalf of its owners.

(d) Return. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the production activities are completed. The return must state the name of the production, a description of the production, and a detailed accounting of the qualifying expenses with respect to which a credit is claimed.

(e) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(f) Limitations. – The amount of credit allowed under this section with respect to a production that is a feature film may not exceed seven million five hundred thousand dollars (\$7,500,000). No credit is allowed under this section for any production that satisfies one of the following conditions:

- (1) It is political advertising.
- (2) It is a television production of a news program or live sporting event.
- (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- (4) It is a radio production.

(g) Substantiation. – A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Secretary of Revenue. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The Secretary may consult with the North Carolina Film Office of the Department of Commerce and the regional film commissions in order to determine the amount of qualifying expenses.

(h) Report. – The Department of Revenue must publish by May 1 of each year the following information, itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The location of sites used in a production for which a credit was claimed.
- (2) The qualifying expenses for which a credit was claimed, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits claimed.
- (4) The total cost to the General Fund of the credits claimed.

(i) **(Repealed effective for taxable years beginning on and after January 1, 2007)** No Double Benefit. – A taxpayer may not claim a credit under this section for qualifying expenses for which it claimed a deduction under the Code. A taxpayer that claims a credit provided under this section must adjust taxable income as provided in G.S. 105-134.6(c)(9).

(j) ~~Sunset.~~—NC Film Office. – To claim a credit under this section, a taxpayer must notify the Division of Tourism, Film, and Sports Development in the Department of Commerce of the taxpayer's intent to claim the production tax credit. The notification must include the title of the production, the name of the production company, a financial contact for the production company, the proposed dates on which the production company plans to begin filming the production, and any other information required by the Division. For productions that have production credits, a taxpayer claiming a credit under this section must acknowledge in the production credits both the North Carolina Film Office and the regional film office responsible for the geographic area in which the filming of the production occurred.

(k) ~~Sunset.~~ – This section is repealed for qualifying expenses occurring on or after January 1, 2010-2014."

SECTION 28.24.(c) This section is effective for taxable years beginning on or after January 1, 2008.

EXPAND RENEWABLE ENERGY TAX CREDIT

SECTION 28.25.(a) G.S. 105-129.16H reads as rewritten:

"§ 105-129.16H. Credit for donating funds to a nonprofit organization or unit of State or local government to enable the nonprofit or government unit to acquire renewable energy property.

(a) Credit. – A taxpayer who donates money to a tax-exempt nonprofit organization or a unit of State or local government for the purpose of providing funds for the organization or government unit to construct, purchase, or lease renewable energy property is allowed a credit under this section if ~~the nonprofit organization uses the donation is used~~ for its intended purpose. A tax-exempt nonprofit organization is an organization that is exempt from tax under section 501(c)(3) of the Code.

The amount of the credit allowed in this section is the taxpayer's share of the credit the nonprofit organization or the unit of State or local government could claim under G.S. 105-129.16A if the nonprofit organization or government unit were subject to tax. The taxpayer's share of the credit is calculated by dividing the taxpayer's donation by the cost of the renewable energy property constructed, purchased, or leased by the nonprofit organization or government unit and placed in service during the taxable year and then multiplying this percentage by the amount of the credit the nonprofit

organization or government unit could claim if it were subject to tax. A taxpayer must take the credit allowed by this section in the year in which the property is placed in service. The installment requirements in G.S. 105-129.16A for nonresidential property do not apply to the credit allowed in this section.

(b) **Records.** – A nonprofit organization or a unit of State or local government must keep a record of all donations it receives for the purpose of providing funds for the organization to construct, purchase, or lease renewable energy property and of the amount of the donations used for this purpose. If a nonprofit organization or government unit places renewable energy property in service that is purchased in whole or in part from donations made for this purpose, the nonprofit organization or government unit must give each taxpayer who made a donation a statement setting out the amount of the credit for which the taxpayer qualifies under this section. The statement must describe the renewable energy property placed in service and state the cost of the property, the amount of the credit the nonprofit organization or government unit could claim under G.S. 105-129.16A if it were subject to tax, and the taxpayer's share of the credit allowed in this section. If the donations made for the renewable energy property exceed the cost of the property, the nonprofit organization or government unit must prorate each taxpayer's share of the credit. The sum of the credits allowed under this section to taxpayers who make donations to a nonprofit organization or a government unit may not exceed the amount of the credit the nonprofit organization or government unit could claim under G.S. 105-129.16A if it were subject to tax.

(c) **No Double Benefit.** – A taxpayer who claims a credit under this section based on a donation to a nonprofit organization or a unit of State or local government is not allowed to deduct this donation as a charitable contribution."

SECTION 28.25.(b) G.S. 105-130.5(a)(20) reads as rewritten:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

(20) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H."

SECTION 28.25.(c) G.S. 105-134(c)(5b) reads as rewritten:

"(c) **Additions.** – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

...

(5b) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H."

SECTION 28.25.(d) G.S. 105-259(b)(38) 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:

...

(38) To verify with a nonprofit organization or a unit of State or local government information relating to eligibility for a credit under G.S. 105-129.16H."

SECTION 28.25.(e) This section is effective for taxable years beginning on or after January 1, 2008.

INCREASE QUALIFIED BUSINESS VENTURE TAX CREDIT CAP

SECTION 28.26.(a) 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 ~~seven million dollars (\$7,000,000)~~ seven million five hundred thousand dollars (\$7,500,000). 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 this maximum amount, the Secretary shall allow a portion of the credits claimed by allocating the maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer."

SECTION 28.26.(b) This section is effective for investments made on or after January 1, 2008.

TAX DEDUCTION FOR THE SALE OF A MANUFACTURED HOME COMMUNITY TO MANUFACTURED HOMEOWNERS.

SECTION 28.27.(a) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(24) Five percent (5%) of the gross purchase price of a qualified sale of a manufactured home community. A qualified sale is a transfer of land comprising a manufactured home community in a single purchase to a group composed of a majority of the manufactured home community leaseholders or to a nonprofit organization that represents such a group. To be eligible for this deduction, a taxpayer must give notice of the sale to the North Carolina Housing Finance Agency under G.S. 42-14.3."

SECTION 28.27.(b) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. – The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

...

(19) Five percent (5%) of the gross purchase price of a qualified sale of a manufactured home community. A qualified sale is a transfer of land comprising a manufactured home community in a single purchase to a group composed of a majority of the manufactured home community leaseholders or to a nonprofit organization that represents such a group. To be eligible for this deduction, a taxpayer must give notice of the sale to the North Carolina Housing Finance Agency under G.S. 42-14.3."

SECTION 28.27.(c) G.S. 42-14.3 reads as rewritten:

"§ 42-14.3. Notice of conversion of manufactured home communities.

(a) In the event that an owner of a manufactured home community (defined as a parcel of land, whether undivided or subdivided, that has been designed to

accommodate at least five manufactured homes) intends to convert the manufactured home community, or any part thereof, to another use that will require movement of the manufactured homes, the owner of the manufactured home community shall give each owner of a manufactured home and the North Carolina Housing Finance Agency notice of the intended conversion at least 180 days before the owner of a manufactured home is required to vacate and move the manufactured home, regardless of the term of the tenancy. Failure to give notice to each manufactured home owner as required by this section is a defense in an action for possession. The respective rights and obligations of the community owner and the owner of the manufactured home under their lease shall continue in effect during the notice period.

(b) Notwithstanding subsection (a) of this section, if a manufactured home community is being closed pursuant to a valid order of any unit of State or local government, the owner of the community shall be required to give notice of the closure of the community to each resident of the community and the North Carolina Housing Finance Agency within three business days of the date on which the order is issued."

SECTION 28.27.(d) Subsections (a) and (b) of this section are effective for taxable years beginning on or after January 1, 2008, and expire for taxable years beginning on or after January 1, 2015. The remainder of this section is effective when it becomes law.

PROCEDURE FOR TAX CLASS ACTIONS

SECTION 28.28.(a) G.S. 1A-1, Rule 23, is amended by adding a new subsection to read:

"(d) Tax Class Actions. – In addition to all of the requirements set out in this rule, a class action seeking the refund of a State tax paid due to an alleged unconstitutional statute may be brought and maintained only as provided in G.S. 105-241.18."

SECTION 28.28.(b) Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-241.18. Class actions.

(a) Authority. – A class action against the State for the refund of a tax paid may be maintained only on the grounds of an alleged unconstitutional statute and only if the requirements of Rule 23 of the North Carolina Rules of Civil Procedure and the requirements of this section are met. For purposes of this section, a class action commences upon the later of the following:

- (1) The date a complaint is filed in accordance with G.S. 105-241.17 alleging the existence of a class pursuant to Rule 23 of the North Carolina Rules of Civil Procedure.
- (2) The date a complaint filed in accordance with G.S. 105-241.17 is amended to allege the existence of a class.

(b) Class. – To serve as a class representative of a class action brought under this section, a taxpayer must comply with all of the conditions in G.S. 105-241.17 and the taxpayer's claims must be typical of the claims of the class members. A taxpayer who is not a class representative is eligible to become a member of a class if the taxpayer could have filed a claim for refund under G.S. 105-241.7 as of the date the class action commenced or as of a subsequent date set by the court, whether or not the taxpayer actually filed a claim for refund as of that date. An eligible class member who is not a class representative and who indicates a desire to be included in the class in accordance with the procedure approved by the court under subsection (c) of this section is not required to follow the procedures in G.S. 105-241.11 through G.S. 105-241.17 for the

administrative and judicial review of a request for refund or a proposed denial of a request for refund.

(c) Procedure. – To become a member of a class action brought under this section, an eligible taxpayer must affirmatively indicate a desire to be included in the class in response to a notice of the class action. If the court so orders, the Department must provide to a class representative a list of names and last known addresses of all taxpayers who are readily determinable by the Department and who are eligible to become a member of the class. The court must approve the content of a notice of a class action, the method for distributing the notice, and the procedure by which an eligible taxpayer affirmatively indicates a desire to be included in the class. The class representative must advance the costs of notifying eligible taxpayers of the class action.

(d) Statute of Limitations. – The statute of limitations for filing a claim for refund of tax paid due to an alleged unconstitutional statute is tolled for a taxpayer who is eligible to become a member of a class action. The tolling begins on the date the class action is commenced. For a taxpayer who does not join the class, the tolling ends when the taxpayer does not affirmatively indicate a desire to be included in the class within the time and in accordance with the procedure approved by the court under subsection (c) of this section. For a taxpayer who joins the class, the tolling ends when a court enters any of the following in the class action:

- (1) A final order denying certification of the class.
- (2) A final order decertifying the class.
- (3) A final order dismissing the class action without an adjudication on the merits.
- (4) A final judgment on the merits.

(e) Effect on Nonparticipating Taxpayers. – A taxpayer who does not become a member of a class may file and prosecute a claim for refund, if the statute of limitations has not otherwise expired for filing the claim, or may contest a pending assessment in accordance with the procedures in G.S. 105-241.11 through G.S. 105-241.17. Except as otherwise provided in this subsection, the effect of an adjudication in a class action on a nonparticipating taxpayer's claim for refund or contest of an assessment is governed by the normal rules relating to claim preclusion and issue preclusion.

If a final judgment on the merits is entered in a class action in favor of the class, the following applies to an eligible taxpayer who did not become a member of the class:

- (1) The taxpayer is not entitled to receive any monetary relief awarded to the class on account of taxes previously paid by the taxpayer.
- (2) If the taxpayer has been assessed for failure to pay the tax at issue in the class action and the taxpayer has not paid the assessment, then the assessment is abated.
- (3) The taxpayer is relieved of any future liability for the tax that is the subject of the class action."

SECTION 28.28.(c) G.S. 105-241.19 reads as rewritten:

"§ 105-241.19. Declaratory judgments, injunctions, and other actions prohibited.

The remedies in G.S. 105-241.11 through G.S. ~~105-241.17~~–105-241.18 set out the exclusive remedies for disputing the denial of a requested refund, a taxpayer's liability for a tax, or the constitutionality of a tax statute. Any other action is barred. Neither an action for declaratory judgment, an action for an injunction to prevent the collection of a tax, nor any other action is allowed."

SECTION 28.28.(d) This section becomes effective October 1, 2008, and applies to actions filed on or after that date.

PART XXIX. FEES**FEE INCREASE FOR DOMESTIC VIOLENCE PROGRAMS**

SECTION 29.1.(a) G.S. 7A-305(a2) reads as rewritten:

"(a2) In every action for absolute divorce filed in the district court, a cost of ~~fifty-five dollars (\$55.00)~~seventy-five dollars (\$75.00) shall be assessed against the person filing the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to the State ~~Treasurer for~~Treasurer, who shall deposit fifty-five dollars (\$55.00) to the North Carolina Fund for Displaced Homemakers established under ~~G.S. 143B-394.10~~G.S. 143B-394.10 and twenty dollars (\$20.00) to the Domestic Violence Center Fund established under G.S. 50B-9. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 29.1.(b) This section becomes effective July 20, 2008.

ADJUST SECURITIES FILING FEES

SECTION 29.3.(a) G.S. 78A-31(a)(4) reads as rewritten:

"§ 78A-31. **Notice filings for securities covered under federal law.**

(a) The Administrator, by rule or order, may require the filing of any of the following documents with regard to a security covered under section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(2)):

...

(4) A notice filing pursuant to this section shall expire on December 31 of each year or some other date not more than one year from its effective date as the Administrator may by rule or order provide. A notice filing of the offer of securities covered under federal law that are to be offered for a period in excess of one year shall be renewed annually by payment of a renewal fee of ~~two hundred fifty dollars (\$250.00)~~ two thousand dollars (\$2,000) and by filing any documents and reports that the Administrator may by rule or order require consistent with this section. The renewal shall be effective upon the expiration of the prior notice period.

...."

SECTION 29.3.(b) This section becomes effective July 20, 2008.

NEWBORN SCREENING FEE CHANGES

SECTION 29.4.(a) G.S. 130A-125(c) reads as rewritten:

"(c) A fee of ~~fourteen dollars (\$14.00)~~nineteen dollars (\$19.00) applies to a laboratory test performed by the State ~~Public Health~~ Laboratory of Public Health ~~performed pursuant to this section. Fees collected shall remain in the Department to be used to offset the cost of the Newborn Screening Program. The fee for a laboratory test is a departmental receipt of the Department and shall be used to offset the cost of the Newborn Screening Program.~~"

SECTION 29.4.(b) This section becomes effective July 20, 2008.

HEALTH CARE FACILITY CONSTRUCTION PROJECT FEE INCREASES

SECTION 29.5.(a) G.S. 131E-267 reads as rewritten:

"§ 131E-267. **Fees for departmental review of licensed health care facility or Medical Care Commission bond-financed construction projects.**

(a) The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis as provided in this section. In no event may a fee imposed under this section exceed two hundred thousand dollars (\$200,000) for any single project. The first seven hundred twelve thousand six hundred twenty-six dollars (\$712,626) in fees collected under this section shall remain in the Division of Health Service Regulation. Additional fees collected shall be credited to the General Fund as nontax revenue and are intended to offset rather than replace appropriations made for this purpose.

(b) The fee imposed for the review of a hospital construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	5,000	\$750.00 plus \$0.25 per square foot
5,000	10,000	\$1,500 plus \$0.40 per square foot
10,000	20,000	\$2,000 plus \$0.50 per square foot
20,000	NA	\$3,000 plus \$0.75 per square foot
<u>0</u>	<u>5,000</u>	<u>\$1,500 plus \$0.25 per square foot</u>
<u>5,000</u>	<u>10,000</u>	<u>\$3,000 plus \$0.25 per square foot</u>
<u>10,000</u>	<u>20,000</u>	<u>\$4,500 plus \$0.45 per square foot</u>
<u>20,000</u>	<u>NA</u>	<u>\$6,000 plus \$0.45 per square foot</u>

(c) The fee imposed for the review of a nursing home construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	\$250.00 plus \$0.15 per square foot
2,000	NA	\$250.00 plus \$0.16 per square foot
<u>2,000</u>	<u>NA</u>	<u>\$500.00 plus \$0.25 per square foot</u>

(d) The fee imposed for the review of an ambulatory surgical facility construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	\$200.00 plus \$0.15 per square foot
2,000	NA	\$250.00 plus \$0.20 per square foot
<u>2,000</u>	<u>NA</u>	<u>\$400.00 plus \$0.25 per square foot</u>

(e) The fee imposed for the review of a psychiatric hospital construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	5,000	\$200.00 plus \$0.16 per square foot
5,000	10,000	\$200.00 plus \$0.25 per square foot
10,000	20,000	\$300.00 plus \$0.45 per square foot
20,000	NA	\$400.00 plus \$0.45 per square foot
<u>0</u>	<u>5,000</u>	<u>\$750.00 plus \$0.25 per square foot</u>
<u>5,000</u>	<u>10,000</u>	<u>\$1,500.00 plus \$0.25 per square foot</u>
<u>10,000</u>	<u>20,000</u>	<u>\$2,250.00 plus \$0.45 per square foot</u>
<u>20,000</u>	<u>NA</u>	<u>\$3,000.00 plus \$0.45 per square foot</u>

(f) The fee imposed for the review of an adult care home construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	\$175.00 plus \$0.10 per square foot
2,000	NA	\$175.00 plus \$0.20 per square foot
<u>2,000</u>	<u>NA</u>	<u>\$350.00 plus \$0.20 per square foot</u>

(g) The fee imposed for the review of the following residential construction projects is:

Residential Project	Project Fee
Family Care Homes	\$200.00 <u>\$225.00</u> flat fee
ICFR Group Homes	\$300.00 <u>\$350.00</u> flat fee
Group Homes: 1-3 beds	\$100.00 <u>\$125.00</u> flat fee
Group Homes: 4-6 beds	\$200.00 <u>\$225.00</u> flat fee
Group Homes: 7-9 beds	\$250.00 <u>\$275.00</u> flat fee
Other residential:	
More than 9 beds	\$250.00 <u>\$275.00</u> plus \$0.75 <u>\$0.15</u> per square foot of project space."

SECTION 29.5.(b) This section becomes effective July 20, 2008.

CHANGES TO ASBESTOS CONTAINING MATERIAL REMOVAL PERMIT FEES FOR DEMOLITION PROJECTS

SECTION 29.6.(a) G.S. 130A-450 reads as rewritten:

"§ **130A-450. Asbestos containing material removal permit fees.**

An applicant for an asbestos containing material removal permit is subject to a fee payable to the Department. The fee is a departmental receipt of the Department and must be used to offset the cost of ~~The Department shall establish and collect an application fee for asbestos containing material removal permits to support the asbestos hazard management program. An applicant for a permit must indicate whether the asbestos is to be removed as part of a renovation or a demolition. The~~ If the asbestos is to be removed as part of a renovation, the fee is the amount set by the Department and shall ~~may~~ not exceed one percent (1%) of the contracted price or twenty cents (\$.20) per square foot or linear foot of asbestos containing material to be removed, whichever is greater. If the asbestos is to be removed as part of a demolition, the fee is the greater of the following, not to exceed one thousand five hundred dollars (\$1,500):

- (1) One percent (1%) of the contracted price.
- (2) An amount set by the Department not to exceed twenty cents (\$.20) per square foot or linear foot of asbestos containing material to be removed."

SECTION 29.6.(b) This section becomes effective July 20, 2008.

INCREASE REGISTRATION FEE FOR DEEDS OF TRUST AND MORTGAGES FOR FLOODPLAIN MAP USE

SECTION 29.7.(a) G.S. 161-10(a) reads as rewritten:

"(a) Except as otherwise provided in ~~G.S. 161-11.1 or 161-11.2,~~ this Article, all fees collected under this section shall be deposited into the county general fund. While performing the duties of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

- ...
- (1a) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages. – For registering or filing any deed of trust or mortgage, whether written, printed, or typewritten, the fee shall be ~~twelve dollars (\$12.00)~~ twenty-two dollars (\$22.00) for the first page plus three dollars (\$3.00) for each additional page or fraction thereof.

When a deed of trust or mortgage is presented for registration that contains one or more additional instruments, the fee shall be ten

dollars (\$10.00) for each additional instrument. A deed of trust or mortgage contains one or more additional instruments if such additional instrument or instruments has or have different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone. For recording records of satisfaction, or the cancellation of record by any other means, of deeds of trust or mortgages, there shall be no fee."

SECTION 29.7.(b) Article 1 of Chapter 161 is amended by adding a new section to read:

"§ 161-11.3. Fees for floodplain mapping.

Ten dollars (\$10.00) of each fee collected by the register of deeds for registering or filing a deed of trust or mortgage pursuant to G.S. 161-10(a)(1a) must be forwarded by the register of deeds to the county finance officer, who must forward the funds to the Department of Crime Control and Public Safety to be credited to the Floodplain Mapping Fund established under G.S. 143-215.56A. The county finance officer must forward the funds to the Department on a monthly basis."

SECTION 29.7.(c) Part 6 of Article 21 of Chapter 143 is amended by adding a new section to read:

"§ 143-215.56A. Floodplain Mapping Fund.

The Floodplain Mapping Fund is established as a special revenue fund. The Fund consists of the fees credited to it under G.S. 161-11.3. Revenue in the fund may be used only to offset the Department's cost in preparing floodplain maps and performing its other duties under this Part."

SECTION 29.7.(d) This section becomes effective October 1, 2008, and applies to deeds of trust and mortgages registered or filed on or after that date.

ESTABLISH STATE COURT FACILITY FEE FOR PHONE SYSTEM

SECTION 29.8.(a) G.S. 7A-304(a) is amended by adding a new subdivision to read:

"(2a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund."

SECTION 29.8.(b) G.S. 7A-305(a) is amended by adding a new subdivision to read:

"(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund."

SECTION 29.8.(c) G.S. 7A-306(a) is amended by adding a new subdivision to read:

"(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund."

SECTION 29.8.(d) G.S. 7A-307(a) is amended by adding a new subdivision to read:

"(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund."

SECTION 29.8.(e) G.S. 7A-343.2 reads as rewritten:

"§ 7A-343.2. Court Information Technology Fund.

(a) Fund. – The Court Information Technology Fund is established within the Judicial Department as a ~~nonreverting, interest-bearing special revenue account.~~ fund. Accordingly, ~~revenue in the Fund at the end of a fiscal year does not revert and interest~~ Interest and other investment income earned by the Fund shall be credited accrues to it. The fund consists of the following revenues:

- (1) All moneys collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5 shall be remitted to the State Treasurer and held in this Fund. G.S. 7A-49.5.
- (2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate the judicial and county courthouse phone systems. Moneys in the Fund shall All other monies in the fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.

(c) Report. – The Director ~~shall~~ must report by August 1 and February 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public ~~Safety~~ Safety. The report must include the following:

- (1) ~~on all moneys collected and deposited in~~ Amounts credited in the preceding six months to the Fund ~~Fund.~~
- (2) Amounts expended in the preceding six months from the Fund and the purposes of the expenditures.
- (3) ~~Proposed and on the proposed expenditure of expenditures of those the collected during the preceding six months funds.~~

SECTION 29.8.(f) Section 14.16 of S.L. 2007-323 is repealed.

SECTION 29.8.(g) Subsections (a) through (e) of this section become effective July 20, 2008, and apply to all costs assessed and collected on or after that date. The remainder of this section becomes effective July 1, 2008.

RESCUE SQUAD WORKERS' RELIEF FUND

SECTION 29.9.(a) G.S. 58-88-30 reads as rewritten:

"§ 58-88-30. Administration costs.

The Association shall withhold ~~ten percent (10%)~~ twelve percent (12%) from the money received pursuant to G.S. 20-183.7(c) for the administration of the Fund. The Commissioner of Insurance shall withhold two percent (2%) from the money received pursuant to G.S. 20-183.7(c) for the administration of the Fund."

SECTION 29.9.(b) This section becomes effective October 1, 2008.

AGENT LICENSING FEE CORRECTION AND CLARIFICATION

SECTION 29.10.(a) G.S. 58-33-125 reads as rewritten:

"§ 58-33-125. Fees.

(a) The following table indicates the annual fees that are required for the respective licenses issued, renewed, or cancelled under this Article and Article 21 of this Chapter:

Adjuster	\$75.00
Adjuster, crop hail only	20.00
Agent appointment cancellation (paid by insurer)	10.00

Agent appointment, individual	20.00 10.00
Agent appointment, Medicare supplement and long-term care, individual	10.00
Agent appointment, Medicare supplement and long-term care, nonindividual.....	20.00
Agent, overseas military	20.00
Broker, nonresident	50.00
Broker, resident	50.00
Business entity.....	100.00
Limited representative	20.00
Limited representative cancellation (paid by insurer).....	10.00
Motor vehicle damage appraiser	75.00
Surplus lines licensee, corporate	100.00
Surplus lines licensee, individual	50.00

~~These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer shall be paid to the Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner.~~

(b) Whenever a temporary license is issued under this Article, the fee shall be at the same rate as provided in subsection (a) of this section; and any amounts so paid for a temporary license may be credited against the fee required for an appointment by the sponsoring company.

(c) Any person who is not registered-licensed and who is required by law or administrative rule to secure a license shall, upon application for ~~registration, licensing,~~ pay to the Commissioner a fee of fifty dollars (\$50.00). If additional licensing for other kinds of insurance is requested, a fee of fifty dollars (\$50.00) shall be paid to the Commissioner upon application for ~~registration-licensing~~ for each additional kind of insurance.

In addition to the fees prescribed by this subsection, any person applying for a supplemental license to sell Medicare supplement and long-term care insurance policies shall pay an additional fee of fifty dollars (\$50.00) upon application for ~~registration~~ licensing for those kinds of insurance.

(d) The requirement for an examination, prelicensing education, continuing education, or a registration fee does not apply to agents for domestic farmers' mutual assessment fire insurance companies or associations who solicit and sell only those kinds of insurance specified in G.S. 58-7-75(5)d for ~~such~~ those companies or associations.

(e) A resident licensee may obtain a duplicate photo-bearing license at times and places within this State that the Commissioner considers necessary and reasonable to serve the convenience of both the Commissioner and the licensee. The Commissioner may contract directly with persons for processing of duplicate photo-bearing licenses, and the contract shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee for duplicating a photo-bearing license in an amount that offsets the costs to the Department of duplicating the license, including costs associated with any contract entered into pursuant to this subsection.

(f) Repealed by Session Laws 2007-507, s. 7, effective January 1, 2008, and applicable to fees or charges due, and actions occurring, on or after that date.

(g) All fees prescribed by this section are nonrefundable. The fees in subsection (a) of this section are in lieu of any other license fees. The fee for an individual agent appointment under subsection (a) of this section applies to each license.

(h) Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer are payable to the Commissioner when billed. Billing of insurers for renewal fees must be on an annual basis. The frequency for billing insurers for other licensing and appointment fees is determined by the Commissioner and may be daily, monthly, or quarterly. An electronic payment made through the NAIC or an affiliate of NAIC is considered a payment to the Commissioner."

SECTION 29.10.(b) This section becomes effective January 1, 2009, and applies to fees billed on or after that date.

PART XXX. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 30.1. The provisions of the State Budget Act, Chapter 143C 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 30.2.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated July 3, 2008, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, 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 30.2.(b) The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2008-2009 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the 2008-2009 budget to the General Assembly in May 2008 in the documents "The North Carolina State Budget Recommended Adjustments 2008-2009" and "Governor's Recommended Budget Governmental and Proprietary Funds and Selected Component Units 2008-2009" for the 2008-2009 fiscal year for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

SECTION 30.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and 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 2008-2009

SECTION 30.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2008-2009 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2008-2009 fiscal year.

EFFECT OF HEADINGS

SECTION 30.4. 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.

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 30.4A.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2007-145 and S.L. 2007-323 remain in effect.

SECTION 30.4A.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2008-2009 fiscal year in S.L. 2007-145 and S.L. 2007-323 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.

SEVERABILITY CLAUSE

SECTION 30.5. 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 30.6. Except as otherwise provided, this act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 3:52 p.m. on the 16th day of July, 2008.

Session Law 2008-108**H.B. 2279**

AN ACT TO REPEAL THE PERMIT EXEMPTION FOR OPEN FIRES WITHIN ONE HUNDRED FEET OF AN OCCUPIED DWELLING WITHIN THE LAKE ROYALE COMMUNITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-60.31(a) shall not apply to the Lake Royale community in Franklin and Nash Counties, except that it shall apply to a campfire that is within 100 feet of an occupied dwelling house if that fire is confined within an area upon which a watch is being continuously maintained and which is provided with adequate fire protection equipment. As used in this section, the term "campfire" means an outdoor fire used to cook food or provide warmth for fewer than ten people. Nothing in this act shall be construed to interfere with the power of the Governor or other agency or official to prohibit campfires when acting pursuant to proper authority.

SECTION 2. This act applies only to the Lake Royale community in Franklin and Nash Counties and is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-109**S.B. 2157**

AN ACT RELATING TO THE PAYMENT OF ASSESSMENTS IN FULL OR BY INSTALLMENTS IN CUMBERLAND COUNTY.

*The General Assembly of North Carolina enacts:***SECTION 1.** G.S. 153A-199 reads as rewritten:**"§ 153A-199. Payment of assessments in full or by installments.**

Within 30 days after the day that notice of confirmation of the assessment roll is published, each owner of assessed property shall pay his assessment in full, unless the board of commissioners has provided that assessments may be paid in annual installments. If payment by installments is permitted, any portion of an assessment not paid within the 30-day period shall be paid in annual installments. The board shall in the assessment resolution determine whether payment may be made by annual installments and set the number of installments, which may not be more than ~~40~~15. With respect to payment by installment, the board may provide

- (1) That the first installment with interest is due on the date when property taxes are due, and one installment with interest is due on the same date in each successive year until the assessment is paid in full, or
- (2) That the first installment with interest is due 60 days after the date that the assessment roll is confirmed, and one installment with interest is due on that same day in each successive year until the assessment is paid in full."

SECTION 2. This act applies to Cumberland County only.**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, 2008.

Became law on the date it was ratified.

Session Law 2008-110**H.B. 2788**

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate; and

Whereas, the Speaker of the House of Representatives and the President Pro Tempore of the Senate have made recommendations; Now, therefore,

*The General Assembly of North Carolina enacts:***PART I. SPEAKER'S RECOMMENDATIONS**

SECTION 1.1. Daniel Gonzalez of Buncombe County and Karen S. Velasquez of Wake County are appointed to the Acupuncture Licensing Board for terms expiring on June 30, 2011.

SECTION 1.2. Peter T. Daniel of Wake County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on July 1, 2011.

SECTION 1.3. Donald S. Johnson of Franklin County is appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2011.

SECTION 1.4. The Honorable Leslie J. Winner of Mecklenburg County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2012.

SECTION 1.5. Effective August 1, 2008, Dr. Bruce Vukoson of Chatham County, Ricky L. Parker, Ed.D., of Davidson County, and David M. Mills of Wake County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on July 31, 2011.

SECTION 1.6. Robert W. Seligson of Wake County is appointed to the Centennial Authority for a term expiring on June 30, 2012.

SECTION 1.7. Linda S. Suggs of Wake County is appointed to the North Carolina Center for the Advancement of Teaching Board of Trustees for a term expiring on June 30, 2009, to fill the unexpired term of Sheryn Northey Waterman.

SECTION 1.8. Lynn K. Policastro of Wake County is appointed to the Child Care Commission for a term expiring on June 30, 2010.

SECTION 1.9. C. Lorance "Rance" Henderson of Burke County and Kevin W. Markham of Wake County are appointed to the Clean Water Management Trust Fund Board of Trustees for terms expiring on July 1, 2012.

SECTION 1.10. Malcolm I. "Butch" Heyworth of Mecklenburg County and Victor N. Shaw of Union County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on July 1, 2012.

SECTION 1.11. Brenda Burgin Ross of Forsyth County is appointed to the North Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2011.

SECTION 1.12. Effective September 1, 2008, Jo M. Liles of Hertford County, Julia B. Freeman of Haywood County, Representative Marian N. McLawhorn of Pitt County, Sheriff Richard H. Webster of Chatham County, Tammy Drew of Durham County, Jill Dinwiddie of Mecklenburg County, and Lorraine Tweed of Moore County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2010.

SECTION 1.13. If House Bill 2436, 2007 Regular Session, becomes law, then Arnold Dennis of Durham County, Bennie Walker of Forsyth County, Dr. David B. Strahan of Haywood County, Patrice A. High of Halifax County, and Peggy T. Vick of Cumberland County are appointed to the Committee on Dropout Prevention for terms expiring on December 31, 2010.

SECTION 1.14. Effective December 1, 2008, H. Eugene Miller, Jr., of New Hanover County is appointed to the Economic Investment Committee for a term expiring on November 30, 2010.

SECTION 1.15. Effective January 1, 2008, Representative William L. Wainwright of Craven County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2010.

SECTION 1.16. Effective January 1, 2009, the Honorable Foyle Hightower, Jr., of Anson County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2011.

SECTION 1.17. Donnie W. Brewer of Pitt County is appointed to the Environmental Management Commission for a term expiring on June 30, 2010.

SECTION 1.18. Effective January 1, 2009, Elizabeth Webber of Orange County is appointed to the North Carolina Board of Funeral Service for a term expiring on December 31, 2011.

SECTION 1.19. Theodore "Ted" W. Triebel of Orange County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on July 1, 2011, to fill the unexpired term of Terry B. Todd.

SECTION 1.20. Tonia W. Scott of Wake County is appointed to the North Carolina Housing Partnership for a term expiring on August 31, 2009, to fill the unexpired term of Lillie M. Brown-Doggett.

SECTION 1.21. Ray Littleturtle of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2010.

SECTION 1.22. Effective September 1, 2008, Richard A. Rosen of Orange County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2012.

SECTION 1.23. Danette Steelman-Bridges of Burke County, Robert P. Taylor of Cumberland County, and Valerie D. McMillan of Wilson County are appointed to the North Carolina Interpreter and Transliterator Licensing Board for terms expiring on June 30, 2011.

SECTION 1.24. Effective January 1, 2009, Ginny D. Williams of Beaufort County, Jens Saakvitne of Forsyth County, John C. Moskop, Ph.D., of Pitt County, and Judith B. Brunger of Wake County are appointed to the License to Give Trust Fund Commission for terms expiring on December 31, 2010.

SECTION 1.25. Effective January 1, 2009, T. Alan Boone of Watauga County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2011.

SECTION 1.26. Effective September 1, 2008, Dr. Edward B. Fort of Guilford County is appointed to the North Carolina State Lottery Commission for a term expiring on August 31, 2013.

SECTION 1.27. Don Trobaugh of Guilford County is appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for a term expiring on June 30, 2011.

SECTION 1.28. The Honorable Frederick L. Yates of Perquimans County, Steven Elliott Howell of Northampton County, and Frank B. "Bo" Lewis of Beaufort County are appointed to North Carolina's Northeast Commission for terms expiring on June 30, 2010.

SECTION 1.29. Tina C. Gordon of Wake County is appointed to the North Carolina Nursing Scholars Commission for a term expiring on June 30, 2011, to fill the unexpired term of Connie Moore Corey.

SECTION 1.30. Jeffrey A. Knight of Union County is appointed to the North Carolina On-Site Wastewater Contractors and Inspections Certification Board for a term expiring on July 1, 2011, to fill the unexpired term of Ralph Hollowell.

SECTION 1.31.(a) Edward W. Wood of New Hanover County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 2009.

SECTION 1.31.(b) C. Michael Allen, Ph.D., of Mecklenburg County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on July 1, 2011.

SECTION 1.32. Effective January 1, 2009, Clifton H. Smith of Lincoln County, Derek D. Kelly of Davidson County, the Reverend James R. Horton of Martin County, Robert M. Shinn of Cabarrus County, and Sue Russell of Orange County are

appointed to the Board of Directors of the North Carolina Partnership for Children, Inc., for terms expiring on December 31, 2011.

SECTION 1.33. Jeffrey Starkweather of Chatham County is appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for a term expiring on June 30, 2009, to fill the unexpired term of Thomas S. Blue.

SECTION 1.34. James C. Stevens of Carteret County is appointed to the Private Protective Service Board for a term expiring on June 30, 2011.

SECTION 1.35. Melvin L. "Skip" Alston of Guilford County is appointed to the North Carolina Real Estate Commission for a term expiring on June 30, 2011.

SECTION 1.36. Joseph M. Bryan, Jr., of Guilford County, Saint Clair Basnight of Dare County, and Malcolm K. Fearing, III, of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2010.

SECTION 1.37. Curtis B. Venable of Buncombe County and the Honorable John B. Lewis Jr., of Pitt County are appointed to the Rules Review Commission for terms expiring on June 30, 2010.

SECTION 1.38. Effective September 1, 2008, Steve O. Hunt of Catawba County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on August 31, 2010.

SECTION 1.39.(a) Effective January 1, 2008, Sondra Dickens of Northampton County and Patrick Barnes of Chatham County are appointed to the North Carolina Small Business Contractor Authority for terms expiring on December 31, 2010.

SECTION 1.39.(b) Effective January 1, 2008, Jeff D. Talbot of Watauga County and Spencer Thompson of Mecklenburg County are appointed to the North Carolina Small Business Contractor Authority for terms expiring on December 31, 2011.

SECTION 1.40. Bryan S. Evans of Pitt County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2011.

SECTION 1.41. John Marvin Thompson of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2011.

SECTION 1.42. Effective January 1, 2009, William P. Pope of Iredell County is appointed to the State Ethics Commission for a term expiring on December 31, 2012.

SECTION 1.43. Garry W. Cooper of Pamlico County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2010, to fill the unexpired term of John Wayne Strowd, Jr.

SECTION 1.44. Jeff D. Etheridge, Jr., of Columbus County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2010.

SECTION 1.45.(a) John E. Hammond, Ph.D., of Chatham 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, 2009, to fill the unexpired term of Lacey P. Barnes.

SECTION 1.45.(b) D. Steven Beam of Mecklenburg County and Linda Rouse Sutton of Lenoir County are appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 2010.

SECTION 1.46. Alice Andrews Joyce of Orange County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2012.

SECTION 1.47. Effective January 14, 2009, Representative Drew Saunders of Mecklenburg County is appointed to the North Carolina Turnpike Authority for a term expiring on January 14, 2013.

SECTION 1.48. Effective January 1, 2009, Representative E. Nelson Cole of Rockingham County and Representative Lucy T. Allen of Franklin County are appointed to the Virginia-North Carolina High-Speed Rail Compact Commission for terms expiring on December 31, 2010.

PART II. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS

SECTION 2.1. Courtney Brown of Iredell County and J. Richard Lee of Wake County are appointed to the Alarm Systems Licensing Board for terms expiring on June 30, 2011.

SECTION 2.2. Michael Leonard of Forsyth County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2012.

SECTION 2.3. Dr. Roy Alan Majors of Mecklenburg County is appointed to the North Carolina Board of Athletic Trainer Examiners for a term expiring on June 30, 2011.

SECTION 2.4. Dennis Walters of Cumberland County is appointed to the North Carolina Capital Facilities Finance Agency Board of Directors for a term expiring on March 1, 2012.

SECTION 2.5. Margaret Anne Biddle of Wake County and Lorrie Looper of Watauga County are appointed to the Child Care Commission for a term expiring on June 30, 2010.

SECTION 2.6. Jim Conrad of Forsyth County is appointed to the North Carolina Board of Cosmetic Art Examiners for a term expiring on June 30, 2010.

SECTION 2.7. Dr. Joye Willcox of Wake County is appointed to the North Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2011.

SECTION 2.8. J. Anderson Little of Orange County is appointed to the Dispute Resolution Commission for a term expiring on June 30, 2011.

SECTION 2.9. Effective September 1, 2008, Senator Doug Berger of Franklin County, Valerie Asbell of Hertford County, John H. Guard of Pitt County, The Honorable J. Thomas Davis of Rutherford County, and David Badger of Cherokee County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2010.

SECTION 2.10. If House Bill 2436, 2007 Regular Session, becomes law, then Patsy Ray of Cumberland County, Dean Zoe Locklear of Robeson County, Lisa Daye of McDowell County, Bill Farmer of Mecklenburg County, and Margaret Ellis of Vance County are appointed to the Committee on Dropout Prevention for terms expiring on December 31, 2010.

SECTION 2.11. Effective September 1, 2008, Margaret Wingate of Mecklenburg County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2011.

SECTION 2.12. Dr. Steven Landau of Johnston County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on June 30, 2012.

SECTION 2.13. Effective January 1, 2009, George Parrott of Wake County is appointed to the North Carolina Board of Funeral Service for a term expiring on December 31, 2011.

SECTION 2.14. Effective September 1, 2008, Ted Alexander of Cleveland County, Sallie Surface of Northampton County, Jeanne Tedrow of Wake County, Rita Thuout of Gaston County, and Tom Smith of Wake County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2011.

SECTION 2.15. Effective September 1, 2008, Sean P. Devereux of Buncombe County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2012.

SECTION 2.16. James L. Pittman of Robeson County is appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for a term expiring on June 30, 2011.

SECTION 2.17. Walt Israel of Gaston County and Cynthia Tart of Brunswick County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on July 1, 2011.

SECTION 2.18. Richard Allen of Anson County and Ronald Burriss of Stanley County are appointed to the Private Protective Services Board for terms expiring on June 30, 2011.

SECTION 2.19. Ray West of Chatham County is appointed to the North Carolina Recreational Therapy Licensure Board for a term expiring on June 30, 2011.

SECTION 2.20. Marsha Jordan of Lincoln County is appointed to the North Carolina Real Estate Commission for a term expiring on June 30, 2011.

SECTION 2.21. Elmer Midgette of Dare County, William Kealy of Dare County, and Joanne Williams of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2010.

SECTION 2.22. Bruce Beasley of Wilson County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term expiring on June 30, 2009, to fill the unexpired term of David C. Smith.

SECTION 2.23. Kirk Alan Preiss of Wake County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2009.

SECTION 2.24. Edward Hearn of Wake County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2011.

SECTION 2.25. Stephen Criscenzo of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2011.

SECTION 2.26. Effective September 1, 2008, Norwood Clark of Wake County is appointed to the North Carolina State Lottery Commission for a term expiring on August 31, 2013.

SECTION 2.27. Laura Wilson of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2010.

SECTION 2.28. Pam Silberman of Durham County, Marion Sullivan of Orange County, and Dr. Charles Hayek of Cleveland County are appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 2010.

SECTION 2.29. Lonnie Beam of Gaston County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2012.

SECTION 2.30. Chris Dickey of Cherokee County and A.M. "Buck" Demarest of Wake County are appointed to the Well Contractors Certification Commission for terms expiring on June 30, 2011.

PART III. EFFECTIVE DATE

SECTION 3.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only.

SECTION 3.2. Unless otherwise specified, all appointments made by this act are for terms to begin upon ratification of this act.

SECTION 3.3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-111

S.B. 1631

AN ACT TO CLARIFY HOW PUBLIC BODIES IN HYDE COUNTY MAY CONDUCT BUSINESS DURING MEETINGS INVOLVING SIMULTANEOUS COMMUNICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-318.13 reads as rewritten:

"§ **143-318.13. Electronic meetings; written ballots; acting by reference.**

(a) Electronic Meetings. – A public body may conduct official meetings, in whole or in part, with simultaneous communication. Prior to conducting an official meeting with simultaneous communication, the public body shall adopt rules of procedure governing the conduct of such meetings that address at least all of the following:

- (1) The verification of the identity of the member or members of the public body who are participating by simultaneous communication.
- (2) The process of orderly deliberation by the public body.
- (3) The process of voting by the public body.
- (4) The procedure for recording any votes taken in the minutes of the public body.
- (5) The means by which members of the public can listen or watch the official meeting and the means by which the public is offered the opportunity to participate from the remote location to the same extent as the public at the main location. This requirement shall not apply in emergency meetings.

(a1) Quorum and Voting by Members of the Public Body During Electronic Meetings. – A member or members of the public body participating from a remote location by simultaneous communication shall be counted as present for quorum purposes, and all votes of members of a public body made during an official meeting with simultaneous communication shall be counted as if the member were physically present in the place of the official meeting provided all of the following apply to the official meeting:

- (1) The official meeting was properly noticed under G.S. 143-318.12 and under any other requirement for notice applicable to the public body.
- (2) The member or members of the public body participating from a remote location by simultaneous communication are not physically located outside the jurisdiction of the public body. This subdivision shall not apply if the official meeting is an emergency meeting as defined in G.S. 143-318.12(b)(3).

- (3) The member or members of the public body participating from a remote location by simultaneous communication can hear what is said by the other members of the public body and by any individual addressing the public body.
- (4) The member or members of the public body participating from a remote location by simultaneous communication can be heard by the other members of the public body and any other individuals in attendance at the official meeting.
- (5) The vote of the member or members of the public body participating from a remote location by simultaneous communication is not by electronic mail.
- (6) If the chair or presiding officer of the public body is participating from a remote location by simultaneous communication, the vice chair or mayor pro tempore or some other member of the public body who is physically present shall preside at the official meeting. The chair or presiding officer of the public body participating from a remote location by simultaneous communication shall retain the same voting rights he or she has when presiding.
- (7) The official meeting, or part of an official meeting with a member or members of the public body participating from a remote location by simultaneous communication is not any of the following:
 - a. A closed session, unless the closed session is held during an emergency meeting.
 - b. A quasi-judicial proceeding.
- (8) No written ballots may be taken at the official meeting with a member or members of the public body participating from a remote location by simultaneous communication.
- (9) If the official meeting involves a member of the public body participating from a remote location by simultaneous communication by which the member cannot be physically seen by the public body, that member must comply with all of the following:
 - a. The member identifies himself or herself when the roll is taken or the meeting is commenced.
 - b. The member identifies himself or herself prior to participating in the deliberations during the official meeting.
 - c. The member identifies himself or herself prior to voting.
- (10) The member or members participating from a remote location by simultaneous communication shall have been provided with any documents to be considered during the official meeting.

(a2) Participation of Public During Electronic Meetings. – If a public body holds an official meeting by use of ~~conference telephone or other electronic means,~~ simultaneous communication, it shall provide a location and means whereby members of the public may listen to the official meeting and the notice of the official meeting required by this Article shall specify that location. ~~A fee of up to twenty five dollars (\$25.00) may be charged each such listener to defray in part the cost of providing the necessary location and equipment.~~

(b) Written Ballots. – Except as provided in this subsection or by joint resolution of the General Assembly, a public body may not vote by secret or written ballot. If a public body decides to vote by written ballot, each member of the body so voting shall

sign his or her ballot; and the minutes of the public body shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the clerk or secretary to the public body immediately following the meeting at which the vote took place and until the minutes of that official meeting are approved, at which time the ballots may be destroyed.

(c) Acting by Reference. – The members of a public body shall not deliberate, vote, or otherwise take action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a an official meeting of the public body to understand what is being deliberated, voted, or acted upon. However, this subsection does not prohibit a public body from deliberating, voting, or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted, or acted upon, are available for public inspection at the official meeting."

SECTION 2. G.S. 143-318.10(d) reads as rewritten:

"(d) "Official meeting" means a meeting, assembly, or gathering together at any time or place or the simultaneous communication ~~by conference telephone or other electronic means~~ of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body. However, a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article."

SECTION 3. G.S. 143-318.10 is amended by adding a new subsection to read:

"(d1) "Simultaneous communication" means any communication by conference telephone or other electronic means."

SECTION 3.1. This act applies only to Hyde County.

SECTION 3.2. Nothing in this act shall be construed to affect the validity of actions related to electronic meetings of any other public body.

SECTION 4. This act is effective October 1, 2008, and any vote taken by a public body that included a member voting by simultaneous communication by conference telephone or other electronic means before that date is ratified.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-112

S.B. 1977

AN ACT TO ALLOW THE TOWNS OF LELAND AND SPENCER TO ANNEX
CERTAIN RIGHTS-OF-WAY OF THE DEPARTMENT OF
TRANSPORTATION.

The General Assembly of North Carolina enacts:

SECTION 1. The Town of Leland may annex by ordinance any area of Department of Transportation right-of-way bordered by the town as of May 15, 2008.

SECTION 2. The two areas authorized for annexation by Section 1 of this act are more particularly described as follows:

- (1) US 17 ROW segment 1: From a point approximately 477 feet NE of Old Waterford Way SW to a point approximately 180 feet SW of Ploof Road, a total distance of approximately 2,070 feet.
- (2) US 17 ROW segment 2: From a point approximately 563 feet SW of Ploof Road SW to the Leland town limits, a total distance of approximately 2,628 feet.

SECTION 3. The Town of Spencer may annex by ordinance an area of Department of Transportation right-of-way bordered by the town, more particularly described as follows: That portion of State of North Carolina land beginning at a point abutting the corporate limits of the Town of Spencer and specifically located between Tax Map 046, Parcel 012 and Tax Map 047, Parcel 011 along US Highway 29N.

SECTION 4. Any ordinance adopted under this act shall be recorded under either G.S. 160A-39 or G.S. 160A-51, as appropriate, but the annexation shall not otherwise be considered to have been adopted under Article 4A of Chapter 160A of the General Statutes.

SECTION 5. This act becomes effective January 1, 2009.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-113

S.B. 2123

AN ACT TO EXEMPT THE CITY OF DURHAM FROM CERTAIN PROVISIONS OF THE GENERAL STATUTES REGARDING SOLICITATIONS IN, ON, AND NEAR A PUBLIC STREET OR ROADWAY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-175(d) reads as rewritten:

"(d) Local governments may enact ordinances restricting or prohibiting a person from standing on any street, highway, or right-of-way excluding sidewalks while soliciting, or attempting to solicit, any employment, business, or contributions from the driver or occupants of any vehicle. This subsection does not permit additional restrictions or prohibitions on the activities of licensees, employees, or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering ~~surveys-surveys. except as provided in subsection (e) of this section.~~"

SECTION 2. G.S. 20-175(e) is repealed.

SECTION 3. This act applies to the City of Durham only.

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, 2008.

Became law on the date it was ratified.

Session Law 2008-114

H.B. 2755

AN ACT AUTHORIZING THE TOWN OF OAK ISLAND TO LEVY SPECIAL ASSESSMENTS TO RAISE LOCAL FINANCING FOR NON-BEACH DREDGING PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Town of Oak Island may levy special assessments for non-beach dredging projects in and adjacent to the Town for the purpose of raising the local share of project costs. The Town shall comply with the provisions of Article 10 of Chapter 160A of the General Statutes in levying special assessments under this section.

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, 2008.

Became law on the date it was ratified.

Session Law 2008-115

H.B. 2756

AN ACT TO ALLOW THE TOWN OF OAK ISLAND TO MAKE EQUAL ASSESSMENTS FOR EACH LOT WITHIN THE TOWN WHICH BENEFITS FROM BEACH EROSION OR FLOOD AND HURRICANE PROTECTION WORKS PROJECTS UNDERTAKEN BY THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-238 reads as rewritten:

"§ 160A-238. **Authority to make assessments for beach erosion control and flood and hurricane protection works.**

A city may make special assessments, according to the procedures of this Article, against benefited property within the city for all or part of the costs of acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works. Assessments for these projects may be made on the basis of:

- (1) The frontage abutting on the project, at an equal rate per foot of frontage; or
- (2) The frontage abutting on a beach or shoreline protected or benefited by the project, at an equal rate per foot of frontage; or
- (3) The area of land benefited by the project, at an equal rate per unit of area; or
- (4) The valuation of land benefited by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar of valuation; or
- (4a) The number of lots served, or subject to being served, at an equal rate per lot; or
- (5) A combination of two or more of these bases.

Whenever the basis selected for assessment is either area or valuation, the council shall provide for the laying out of one or more benefit zones according to the distance from the shoreline, the distance from the project, the elevation of the land, or other relevant factors. If more than one benefit zone is established, the council shall establish differing rates of assessment to apply uniformly throughout each benefit zone."

SECTION 2. This act applies to the Town of Oak Island only.

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, 2008.

Became law on the date it was ratified.

Session Law 2008-116

H.B. 2690

AN ACT TO AUTHORIZE THE COUNTY OF DURHAM TO LEVY A ONE PERCENT SALES TAX ON RESTAURANT MEALS IN THE COUNTY OF DURHAM IF APPROVED BY THE VOTERS.

The General Assembly of North Carolina enacts:

SECTION 1. Authorization. – If the majority of those voting in a referendum held pursuant to this act vote for the levy of the tax, the Board of Commissioners for the county may, by resolution, levy a local prepared food tax up to one percent (1%) of the sales price in addition to any other State and local sales and use taxes levied pursuant to law. The tax applies to the sales price of prepared food and drink sold within the taxing unit, including all municipalities located therein, at retail, for consumption on or off the premises, by a retailer within the county that is subject to sales tax under G.S. 105-164.4(a)(1). A prepared food tax must 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.

SECTION 2. Vote. – The governing body of a taxing unit may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local prepared food tax in the taxing unit as provided in this act. The election shall be held on November 4, 2008, and shall be held in accordance with the procedures of G.S. 163-287.

SECTION 3. Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this act shall be:

"[] FOR [] AGAINST

One percent (1%) local prepared food tax, in addition to the current local sales and use taxes."

SECTION 4. Definitions. – The definitions in G.S. 105-164.3 apply to this act. In addition, the following definitions apply in this act:

- (1) County. – Defined in G.S. 153A-1.
- (2) Person. – Defined in G.S. 105-228.90.
- (3) Prepared food and drink. – The same meaning as "prepared food" under G.S. 105-164.3.
- (4) Taxing unit. – A county.

SECTION 5. Exemptions. – The prepared food tax levied under this act does not apply to the following sales of prepared food and drink:

- (1) Prepared food and drink served to residents in boardinghouses and sold together on a periodic basis with rental of a sleeping room or lodging.
- (2) Retail sales exempt from taxation under G.S. 105-164.13.
- (3) Retail sales through or by means of vending machines.
- (4) Prepared food and drink served by a retailer subject to the local occupancy tax if the charge for the prepared food and drink is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the retailer.
- (5) Prepared food and drink furnished without charge by an employer to an employee.

- (6) Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments, other than sales of prepared food and drink in the delicatessen or similar department of the grocer or grocery section.

SECTION 6. Collection. – Every retailer subject to a tax levied under this act must, on and after the effective date of the levy of the tax, collect the tax. This tax must be collected as part of the charge for furnishing prepared food and drink. The tax must be stated and charged separately from the sales records and must be paid by the purchaser to the retailer as trustee for and on account of the taxing unit. The tax must be added to the sales price and passed on to the purchaser instead of being borne by the retailer. The taxing unit must design, print, and furnish to all appropriate businesses and persons in the taxing unit the necessary forms for filing returns and instructions to ensure the full collection of the tax.

SECTION 7. Administration. – The taxing unit must administer a tax levied under this act. A tax levied under this act is due and payable to the local finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every retailer liable for the tax must, on or before the 15th day of each month, prepare and file a return on a form prescribed by the taxing unit. The return must show the total gross receipts derived in the preceding month from sales to which the tax applies.

A return filed with the local finance officer under this act is not a public record and may not be disclosed except as provided in G.S. 153A-148.1.

SECTION 8. Refunds. – The taxing unit must refund to a nonprofit or governmental entity the prepared food tax paid by the entity on eligible purchases of prepared food and drink. A nonprofit or governmental entity's purchase of prepared food and drink is eligible for a refund under this section if the entity is entitled to a refund under G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase or if the sale is exempt under G.S. 105-164.13. The time limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(b) and (d) apply to refunds to nonprofit entities; the time, limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(c) and (d) apply to refunds to governmental entities. When an entity applies for a refund of the prepared food tax paid by it on purchases, it must attach to its application a copy of the application submitted to the Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax on the same purchases or a written statement that the purchases were exempt from the tax. An applicant for a refund under this section must provide any information required by the taxing unit to substantiate the claim.

SECTION 9. Penalties. – A person that fails or refuses to file the return or pay a tax levied under this act 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 body of the taxing unit has the same authority to waive the penalties for a tax levied under this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

SECTION 10. Repeal or Reduction. – A prepared food tax levied under this act may be repealed or reduced by a resolution adopted by the governing body of the taxing unit. Repeal or reduction of a prepared food tax must 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 prepared food 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.

SECTION 11. Taxing Proceeds. – If the referendum passes, the county may deduct from the gross proceeds of the taxes collected under this act an amount not to exceed three percent (3%) of the gross proceeds to pay for the direct cost of administering and collecting the taxes. The remaining proceeds shall be distributed as follows:

- (1) Eighty percent (80%) for civic and cultural amenities.
- (2) Ten percent (10%) for marketing.
- (3) Five percent (5%) for workforce training.
- (4) Five percent (5%) for community cleanup.

SECTION 12. Scope; Conditions. – This act applies to the County of Durham only. An interlocal agreement adopting the percentages set out in Section 11 of this act shall be adopted by both the City of Durham and the County of Durham prior to the referendum on the November 4, 2008, ballot and shall, without modification, be in effect at all times.

SECTION 13. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law on the date it was ratified.

Session Law 2008-117

H.B. 933

AN ACT TO PROVIDE THAT CERTAIN CRIMINAL OFFENSES OF RAPE OR SEXUAL OFFENSE COMMITTED AGAINST A CHILD ARE CLASS B1 FELONIES AND THE OFFENDER SHALL NOT RECEIVE ACTIVE PUNISHMENT OF LESS THAN THREE HUNDRED MONTHS FOLLOWED BY LIFETIME SATELLITE-BASED MONITORING OR THE POSSIBILITY OF LIFE IMPRISONMENT WITHOUT PAROLE, TO INCREASE THE CRIMINAL PENALTIES FOR SEXUAL EXPLOITATION OF A MINOR AND PROMOTING PROSTITUTION OF A MINOR, TO AMEND THE SEX OFFENDER REGISTRATION REQUIREMENTS TO BE MORE STRINGENT, TO REQUIRE COMMUNITY NOTIFICATION REGARDING THE PRESENCE OF A SEXUALLY VIOLENT PREDATOR OR REPEAT SEX OFFENDER, TO AMEND THE LAW REGARDING BAIL FOR VIOLATIONS OF PROBATION AND POST-RELEASE SUPERVISION, TO CREATE A NEW CRIMINAL OFFENSE THAT MAKES IT UNLAWFUL FOR A SEX OFFENDER TO BE ON CERTAIN PREMISES, TO ADDRESS EDUCATION AND HEALTH OF JUVENILES SUBJECT TO RESTRICTIONS, AND TO REQUIRE SEX OFFENDER REGISTRIES CHECKS OF SCHOOL CONTRACTUAL PERSONNEL BEFORE ALLOWING THEM TO HAVE DIRECT INTERACTION WITH STUDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-27.2A. Rape of a child; adult offender.

(a) A person is guilty of rape of a child if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) 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.

(e) The offense under G.S. 14-27.2(a)(1) is a lesser included offense of the offense in this section."

SECTION 2. Article 7A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-27.4A. Sexual offense with a child; adult offender.

(a) A person is guilty of sexual offense with a child if the person is at least 18 years of age and engages in a sexual act with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the

harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) The offense under G.S. 14-27.4(a)(1) is a lesser included offense of the offense in this section."

SECTION 3. G.S. 14-190.16 reads as rewritten:

"§ 14-190.16. First degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

...

(d) Punishment and Sentencing. – Violation of this section is a ~~Class D felony~~. Class C felony."

SECTION 4. G.S. 14-190.17 reads as rewritten:

"§ 14-190.17. Second degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

...

(d) Punishment and Sentencing. – Violation of this section is a ~~Class F felony~~. Class E felony."

SECTION 5. G.S. 14-190.17A reads as rewritten:

"§ 14-190.17A. Third degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity.

...

(d) Punishment and Sentencing. – Violation of this section is a ~~Class I felony~~. Class H felony."

SECTION 6. G.S. 14-190.18 reads as rewritten:

"§ 14-190.18. Promoting prostitution of a minor.

(a) Offense. – A person commits the offense of promoting prostitution of a minor if he knowingly:

- (1) Entices, forces, encourages, or otherwise facilitates a minor to participate in prostitution; or
- (2) Supervises, supports, advises, or protects the prostitution of or by a minor.

(b) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

(c) Punishment and Sentencing. – Violation of this section is a ~~Class D felony~~. Class C felony."

SECTION 6.1. G.S. 14-208.6(5) reads as rewritten:

"(5) 'Sexually violent offense' means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1)(felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), or G.S. 14-202.3 (Solicitation of child by computer to commit an unlawful sex act). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses."

SECTION 7. G.S. 14-208.6A reads as rewritten:

"§ 14-208.6A. Lifetime registration requirements for criminal offenders.

It is the objective of the General Assembly to establish a ~~10-year~~ 30-year registration requirement for persons convicted of certain offenses against minors or sexually violent ~~offenses~~ offenses with an opportunity for those persons to petition in superior court to shorten their registration time period after 10 years of registration. It is the further objective of the General Assembly to establish a more stringent set of registration requirements for recidivists, persons who commit aggravated offenses, and for a subclass of highly dangerous sex offenders who are determined by a sentencing court with the assistance of a board of experts to be sexually violent predators.

...."

SECTION 8. G.S. 14-208.7 reads as rewritten:

"§ 14-208.7. Registration.

(a) A person who is a State resident and who has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides. If the person moves to North Carolina from outside this State, the person shall register within ~~10 days~~ three business days of establishing residence in this State, or whenever the person has been present in the State for 15 days, whichever comes first. If the person is a current resident of North Carolina, the person shall register:

- (1) Within ~~10 days~~ three business days of release from a penal institution or arrival in a county to live outside a penal institution; or
- (2) Immediately upon conviction for a reportable offense where an active term of imprisonment was not imposed.

Registration shall be maintained for a period of at least ~~10 years~~ 30 years following the date of initial county ~~registration~~ registration unless the person, after 10 years of registration, successfully petitions the superior court to shorten his or her registration time period under G.S. 14-208.12A.

...."

SECTION 9. G.S. 14-208.9 reads as rewritten:

"§ 14-208.9. Change of address; change of academic status or educational employment status.

(a) If a person required to register changes address, the person shall report in person and provide written notice of the new address not later than ~~the tenth day~~ the third business day after the change to the sheriff of the county with whom the person had last registered. If the person moves to another county, the person shall also report in person to the sheriff of the new county and provide written notice of the person's address not later than the tenth day after the change of address. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. When the Division receives notice from a sheriff that a person required to register is moving to another county in the State, the Division shall inform the sheriff of the new county of the person's new residence.

(b) If a person required to register intends to move to another state, the person shall report in person to the sheriff of the county of current residence at least ~~10 days~~ three business days before the date the person intends to leave this State to establish residence in another state or jurisdiction. The person shall provide to the sheriff a written notification that includes all of the following information: the address, municipality, county, and state of intended residence.

(1) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to update the registration.

(2) The sheriff shall inform the person that the person must comply with the registration requirements in the new state of residence. The sheriff shall also immediately forward the information included in the notification to the Division, and the Division shall inform the appropriate state official in the state to which the registrant moves of the person's notification and new address.

(b1) A person who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this State shall, within ~~10 days~~ three business days after the date upon which the person indicated he or she would leave this State, report in person to the sheriff's office to which the person reported the intended change of residence, of his or her intent to remain in this State. If the sheriff is notified by the sexual offender that he or she intends to remain in this State, the sheriff shall promptly report this information to the Division.

(c) If a person required to register changes his or her academic status either by enrolling as a student or by terminating enrollment as a student, then the person shall, within ~~10 days~~ three business days, report in person to the sheriff of the county with whom the person registered and provide written notice of the person's new status. The written notice shall include the name and address of the institution of higher education at which the student is or was enrolled. The sheriff shall immediately forward this information to the Division.

(d) If a person required to register changes his or her employment status either by obtaining employment at an institution of higher education or by terminating employment at an institution of higher education, then the person shall, within ~~10 days~~ three business days, report in person to the sheriff of the county with whom the person registered and provide written notice of the person's new status not later than the

tenth day after the change to the sheriff of the county with whom the person registered. The written notice shall include the name and address of the institution of higher education at which the person is or was employed. The sheriff shall immediately forward this information to the Division."

SECTION 10. G.S. 14-208.9A reads as rewritten:

"§ 14-208.9A. Verification of registration information.

(a) The information in the county registry shall be verified semiannually for each registrant as follows:

- (1) Every year on the anniversary of a person's initial registration date, and again six months after that date, the Division shall mail a nonforwardable verification form to the last reported address of the person.
- (2) The person shall return the verification form in person to the sheriff within ~~10 days~~three business days after the receipt of the form.
- (3) The verification form shall be signed by the person and shall indicate whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.
- (3a) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to include with the verification form.
- (4) If the person fails to return the verification form in person to the sheriff within ~~10 days~~three business days after receipt of the form, the person is subject to the penalties provided in G.S. 14-208.11. If the person fails to report in person and provide the written verification as provided by this section, the sheriff shall make a reasonable attempt to verify that the person is residing at the registered address. If the person cannot be found at the registered address and has failed to report a change of address, the person is subject to the penalties provided in G.S. 14-208.11, unless the person reports in person to the sheriff and proves that the person has not changed his or her residential address.

(b) **Additional Verification May Be Required.** – During the period that an offender is required to be registered under this Article, the sheriff is authorized to attempt to verify that the offender continues to reside at the address last registered by the offender.

(c) **Additional Photograph May Be Required.** – If it appears to the sheriff that the current photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, upon in-person notice from the sheriff, the sex offender shall allow the sheriff to take another photograph of the sex offender at the time of the sheriff's request. If requested by the sheriff, the sex offender shall appear in person at the sheriff's office during normal business hours within ~~72 hours~~three business days of being requested to do so and shall allow the sheriff to take another photograph of the sex offender. A person who willfully fails to comply with this subsection is guilty of a Class 1 misdemeanor."

SECTION 11. G.S. 14-208.12A reads as rewritten:

"§ 14-208.12A. Request for termination of registration requirement.

(a) ~~A~~Ten years from the date of initial county registration, a person required to register under this Part may petition the superior court in the district where the person

resides to terminate the 30-year registration requirement 10 years from the date of initial county registration—if the person has not been convicted of a subsequent offense requiring registration under this Article.

...."

SECTION 12. Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.18. Sex offender unlawfully on premises.

(a) It shall be unlawful for any person required to register under this Article, if the offense requiring registration is described in subsection (b) of this section, to knowingly be at any of the following locations:

- (1) On the premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds.
- (2) Within 300 feet of any location intended primarily for the use, care, or supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but not limited to, places described in subdivision (1) of this subsection that are located in malls, shopping centers, or other property open to the general public.
- (3) At any place where minors gather for regularly scheduled educational, recreational, or social programs.

(b) Notwithstanding any provision of this section, a person subject to subsection (a) of this section who is the parent or guardian of a minor may take the minor to any location that can provide emergency medical care treatment if the minor is in need of emergency medical care.

(c) Subsection (a) of this section is applicable only to persons required to register under this Article who have committed any of the following offenses:

- (1) Any offense in Article 7A of this Chapter.
- (2) Any offense where the victim of the offense was under the age of 16 years at the time of the offense.

(d) A person subject to subsection (a) of this section who is a parent or guardian of a student enrolled in a school may be present on school property if all of the following conditions are met:

- (1) The parent or guardian is on school property for the purpose for one of the following:
 - a. To attend a conference at the school with school personnel to discuss the academic or social progress of the parents' or guardians' child; or
 - b. The presence of the parent or guardian has been requested by the principal or his or her designee for any other reason relating to the welfare or transportation of the child.
- (2) The parent or guardian complies with all of the following:
 - a. Notice: The parent or guardian shall notify the principal of the school of the parents' or guardians' registration under this Article and of his or her presence at the school unless the parent or guardian has permission to be present from the superintendent or the local board of education, or the principal has granted ongoing permission for regular visits of a routine nature. If permission is granted by the superintendent or the

local board of education, the superintendent or chairman of the local board of education shall inform the principal of the school where the parents' or guardians' will be present. Notification includes the nature of the parents' or guardians' visit and the hours when the parent or guardian will be present at the school. The parent or guardian is responsible for notifying the principal's office upon arrival and upon departure. Any permission granted under this sub-subdivision shall be in writing.

b. Supervision: At all times that a parent or guardian is on school property, the parent or guardian shall remain under the direct supervision of school personnel. A parent or guardian shall not be on school property even if the parent or guardian has ongoing permission for regular visits of a routine nature if no school personnel are reasonably available to supervise the parent or guardian on that occasion.

(e) A person subject to subsection (a) of this section who is eligible to vote may be present at a location described in subsection (a) used as a voting place as defined by G.S. 163-165 only for the purposes of voting and shall not be outside the voting enclosure other than for the purpose of entering and exiting the voting place. If the voting place is a school, then the person subject to subsection (a) shall notify the principal of the school that he or she is registered under this Article.

(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. 115C-391(d)(2).

(g) A juvenile subject to subsection (a) of this section may be present at a location described in that subsection if the juvenile is at the location to receive medical treatment or mental health services and remains under the direct supervision of an employee of the treating institution at all times.

(h) A violation of this section is a Class H felony."

SECTION 12.1. G.S. 115C-391(d) reads as rewritten:

"§ 115C-391. **Corporal punishment, suspension, or expulsion of pupils.**

(d) Notwithstanding ~~G.S. 115C-378~~, G.S. 115C-378:

(1) ~~A~~ local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older whose behavior indicates that the student's continued presence in school constitutes a clear threat to the safety of other students or employees. The local board of education's decision to expel a student under this section shall be based on clear and convincing evidence. Prior to ordering the expulsion of a student pursuant to this ~~subsection~~ subdivision, the local board of education shall consider whether there is an alternative program offered by the local school administrative unit that may provide education services for the student who is subject to expulsion. At any time after the first July 1 that is at least six months after the board's decision to expel a student under this subsection, a student may request the local board of education to reconsider that decision. If the student demonstrates to the satisfaction of the local board of education that the student's presence in school no longer constitutes a threat to the safety of other students or employees,

the board shall readmit the student to a school in that local school administrative unit on a date the board considers appropriate.

- (2) A local board of education may expel any student subject to G.S. 14-208.18. The local board of education's decision to expel a student under this subdivision shall be based on clear and convincing evidence. Prior to ordering the expulsion of a student pursuant to this subdivision, the local board of education shall consider whether there is an alternative program that may be offered by the local school administrative unit to provide educational services. As provided by G.S. 14-208.18(f), if the local board of education determines that a student shall be provided educational services on school property, the student must be under the supervision of school personnel at all times."

SECTION 12.2. G.S. 14-208.29 reads as rewritten:

"§ 14-208.29. Registration information is not public record; access to registration information available only to law enforcement ~~agencies~~ agencies and local boards of education.

(a) Notwithstanding any other provision of law, the information regarding a juvenile required to register under this Part is not public record and is not available for public inspection.

(b) The registration information of a juvenile adjudicated delinquent and required to register under this Part shall be maintained separately by the sheriff and released only to law enforcement ~~agencies~~ agencies and local boards of education. Registry information for any juvenile enrolled in the local school administrative unit shall be forwarded to the local board of education. Under no circumstances shall the registration of a juvenile adjudicated delinquent be included in the county or statewide registries, or be made available to the public via internet."

SECTION 13. Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.25A. Community and public notification.

The licensee for each licensed day care center and the principal of each elementary school, middle school, and high school shall register with the North Carolina Sex Offender and Public Protection Registry to receive e-mail notification when a registered sex offender moves within a one-mile radius of the licensed day care center or school."

SECTION 14. G.S. 14-208.27 reads as rewritten:

"§ 14-208.27. Change of address.

If a juvenile who is adjudicated delinquent and required to register changes address, the juvenile court counselor for the juvenile shall provide written notice of the new address not later than ~~the tenth day~~ the third business day after the change to the sheriff of the county with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. If the juvenile moves to another county in this State, the Division shall inform the sheriff of the new county of the juvenile's new residence."

SECTION 15. G.S. 14-208.28(2) reads as rewritten:

"§ 14-208.28. Verification of registration information.

- ...
 (2) The juvenile court counselor for the juvenile shall return the verification form to the sheriff within ~~10 days~~ three business days after the receipt of the form.
"

SECTION 16. G.S. 14-208.40(a) reads as rewritten:**"§ 14-208.40. Establishment of program; creation of guidelines; duties.**

(a) The Department of Correction shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor ~~two~~three categories of offenders as follows:

- (1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a recidivist, or was convicted of an aggravated offense as those terms are defined in G.S. 14-208.6.
- (2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Department's risk assessment program requires the highest possible level of supervision and monitoring.
- (3) Any offender who is convicted of G.S. 14-27.2A or G.S. 14-27.4A, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment."

SECTION 16.1. G.S. 14-208.40A reads as rewritten:**"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.**

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, ~~or (iv)~~(iv) the conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, ~~or (iv)~~(iv) the conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a recidivist, ~~or has committed an aggravated offense, or was convicted of G.S. 14-27.2A or G.S. 14-27.4A,~~ the court shall order the offender to enroll in a satellite-based monitoring program for life.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated

~~offense,~~ offense or a violation of G.S. 14-27.2A or G.S. 14-27.4A and the offender is not a recidivist, the court shall order that the Department do a risk assessment of the offender. The Department shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Department pursuant to subsection (d) of this section, the court shall determine whether, based on the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court."

SECTION 16.2. G.S. 14-208.40B(c) reads as rewritten:

"(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, ~~or~~ (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, the court shall order the offender to enroll in satellite-based monitoring for life.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.2A or G.S. 14-27.4A, and the offender is not a recidivist, the court shall order that the Department do a risk assessment of the offender. The Department shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court. The Department may use a risk assessment of the offender done within six months of the date of the hearing.

Upon receipt of a risk assessment from the Department, the court shall determine whether, based on the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court."

SECTION 17. G.S. 14-208.41 is amended by adding a new subsection to read:

"(c) Any person described by G.S. 14-208.40(a)(3), upon completion of active punishment, shall enroll in a satellite-based monitoring program with the Division of Community Corrections office in the county where the person resides. The person shall enroll in the satellite-based monitoring program for the entire period of post-release supervision and shall remain enrolled in the satellite-based monitoring program for the person's life, unless the requirement to enroll in the satellite-based monitoring program is terminated pursuant to G.S. 14-208.43."

SECTION 18. G.S. 14-208.43(a) reads as rewritten:

"(a) An offender described by ~~G.S. 14-308.40(a)(1)~~ G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is required to submit to satellite-based monitoring for the offender's life may file a request for termination of monitoring requirement with the Post-Release Supervision and Parole Commission. The request to terminate the satellite-based monitoring requirement and to terminate the accompanying requirement of unsupervised probation may not be submitted until at least one year after the

offender: (i) has served his or her sentence for the offense for which the satellite-based monitoring requirement was imposed, and (ii) has also completed any period of probation, parole, or post-release supervision imposed as part of the sentence."

SECTION 19. G.S. 15A-1345(b) reads as rewritten:

"(b) Bail Following Arrest for Probation Violation. – If at any time during the period of probation the probationer is arrested for a violation of any of the conditions of probation, he must be taken without unnecessary delay before a judicial official to have conditions of release pending a revocation hearing set in the same manner as provided in G.S. 15A-534. If the probationer has been convicted of an offense at any time that requires registration under Article 27A of Chapter 14 of the General Statutes or an offense that would have required registration but for the effective date of the law establishing the Sex Offender and Public Protection Registration Program, the court must make a finding that the probationer is not a danger to the public prior to release with or without bail."

SECTION 20. G.S. 15A-1368.6 is amended by adding a new subsection to read:

"(b1) Bail Following Arrest for Violation of Post-Release Supervision if Releasee Is a Sex Offender. – Notwithstanding subsection (b) of this section, if the releasee has been convicted of an offense that requires registration under Article 27A of Chapter 14 of the General Statutes and is arrested for a violation in accordance with this section, the releasee shall be detained without bond until the preliminary hearing is conducted."

SECTION 21. Part 6 of Article 22 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-332.1. Sex offender registries checks for certain contractual personnel.

(a) For purposes of this section, the term 'contractual personnel' includes any individual or entity under contract with the local board of education whose contractual job involves direct interaction with students as part of the job. For purposes of this section, the term 'contractual personnel' does not include any person covered under G.S. 115C-332.

(b) Each local board of education shall require, as a term of any contract the local board of education enters, that employers of a person who is contractual personnel conduct an annual check of that person on the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. As a term of any contract, a local board of education shall prohibit any contractual personnel listed on the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry from having direct interaction with students."

SECTION 21.1. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 21.2. The Department of Justice shall study the guidelines issued by the United States Attorney for the federal Sex Offender Registration and Notification Act (SORNA) to determine whether North Carolina is in compliance with those guidelines. The Department of Justice shall identify any areas in which the State fails to comply with SORNA and the action required for compliance. The Attorney General, or his designee, shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by December 1, 2008, regarding the status of the

State's compliance with SORNA and recommend any actions or State legislation that may be required to satisfy the SORNA guidelines.

SECTION 22. Section 21.2 is effective when it becomes law. The maintenance of the registration period of 30 years required by G.S. 14-208.7, as amended by Section 8 of this act, applies to registrations made on or after December 1, 2008. The remainder of this act becomes effective December 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 2:20 p.m. on the 28th day of July, 2008.

Session Law 2008-118

H.B. 2438

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE STATE BUDGET.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CHANGES

SECTION 1.1. Section 2.1 of S.L. 2008-107 is amended by deleting the phrase "Pending Gang Prevention Legislation (HB 274)" and substituting the phrase "Pending Gang Prevention Legislation".

SECTION 1.2. S.L. 2008-107 is amended by adding a new section to read:
"STUDY OF LAPSED SALARY USE

SECTION 6.5. Section 6.18(b) of S.L. 2007-323 reads as rewritten:

'SECTION 6.18.(b) The Office of State Budget and Management shall report its ~~findings~~ findings, including an estimate of the total amount of lapsed salaries by each State agency, to the Joint Legislative Commission on Governmental Operations by April 30, 2008. February 1, 2009."

SECTION 1.3.(b) Section 7.14(g) of S.L. 2008-107 is amended by deleting "subsection (b)" and substituting "subsection (c)".

SECTION 1.3.(c) Section 7.14(b) of S.L. 2008-107 reads as rewritten:

"SECTION 7.14.(b) Committee. – The Committee on Dropout Prevention, as created in Section 7.32 of S.L. 2007-323, is reestablished to determine which local school administrative units, schools, agencies, and nonprofits shall receive dropout prevention grants under this section, the amount of each grant, and eligible uses of the grant funding. When utilizing outside grant reviewers and raters, the Committee is encouraged to utilize individuals who represent public schools, universities, and community-based organizations.

The Committee shall continue to be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Committee. The Department of Public Instruction shall ~~contract with an independent consultant to serve as staff to the Committee, to provide technical assistance to the grant recipients for the length of the grant, and to assist the Committee in evaluating the impact of the grants awarded.~~ grant.

The members of the Committee shall assure they are in compliance with laws and rules governing conflicts of interest. The Committee shall meet on the call of the cochairs provided that the Committee shall meet at least once every three months.

In the event of a vacancy on the Committee, the appointing authorities are encouraged to provide representation on the Committee from each of the eight educational districts as defined in G.S. 115C-65."

SECTION 1.3.(d) Subdivision (1) of Section 8.8 of S.L. 2008-107 is amended by deleting "; and" and substituting ".".

SECTION 1.3.(e) Section 8.9(b) of S.L. 2008-107 is amended by deleting "(Budget Code 16800, Fund 1603)" and substituting "(Budget Code 26800, Fund 2000)".

SECTION 1.3.(f) Section 9.7(c) of S.L. 2007-323, as amended by Section 9.2(d) of S.L. 2008-107, reads as rewritten:

"**SECTION 9.7.(c)** There is appropriated from the Escheat Fund to the State Education Assistance Authority the sum of ~~sixty million dollars (\$60,000,000)~~fifty million dollars (\$50,000,000) for the 2008-2009 fiscal year."

SECTION 1.4. Section 9.4 of S.L. 2008-107 reads as rewritten:

"**SECTION 9.4.(a)** The North Carolina Principal Fellows Commission in collaboration with the State Education Assistance Authority shall make available an optional six-month scholarship in the amount of twenty thousand dollars (\$20,000) to any person who was a recipient of a scholarship loan through the Principal Fellows Program and who: (i) was in Class 10 of the Principal Fellows Program for the 2003-2004 academic year, (ii) completed the Principal Fellows Program, and (iii) has either served as a school administrator for four years at a North Carolina public school or at a school operated by the United States as required by G.S. 116-74.43, or who has had the loan forgiven by the State Education Assistance Authority pursuant to G.S. 116-74.43. A person may be eligible for the optional six-month scholarship only after fulfilling all contractual obligations agreed to by the person upon receipt of the original scholarship loan awarded to the person under G.S. 116-74.42. Exclusive of any deferment for extenuating circumstances, a person remains eligible for the optional six-month scholarship for two years after the six-year period of time allowed the person to satisfy the original scholarship loan requirements under G.S. 116-74.43. Should a person present extenuating circumstances, the State Education Assistance Authority may extend the period of time for which a person remains eligible for the optional six-month scholarship for a reasonable time period.

"**SECTION 9.4.(b)** The Principal Fellows Commission shall develop the criteria for awarding the scholarship. In developing the criteria, the Commission shall require that the person agree to work at least another six months as a school administrator in a North Carolina public school or at a school operated by the United States after satisfying the four-year work requirement set out in G.S. 116-74.43. The Commission, in collaboration with the State Education Assistance Authority, shall develop a process for evaluating a scholarship recipient's work performance and for issuing a final approval and certification of the work performance. The Commission shall transfer to the State Education Assistance Authority the name of each recipient that it certifies as successfully completing the optional scholarship program. The State Education Assistance Authority shall pay the twenty thousand dollar (\$20,000) ~~stipend~~scholarship to the scholarship recipient within a reasonable time of receiving notification from the Commission that the recipient has successfully completed the optional scholarship

program. The State Education Assistance Authority shall perform all of the administrative functions necessary to implement this act, including rule making.

SECTION 9.4.(c) Effective June 30, 2008, the sum of one million dollars (\$1,000,000) shall revert from the Principal Fellows Trust Fund to the General Fund. The sum of one million seven hundred forty thousand dollars (\$1,740,000) in the Principal Fellows Trust Fund shall be held in reserve to pay each participant in the optional scholarship program the ~~stipend~~ scholarship of twenty thousand dollars (\$20,000) upon successful completion of the optional scholarship program."

SECTION 1.5.(a) Section 10.15(x) of S.L. 2008-107 is amended by inserting between the words "accredited" and "for" the words "or demonstrate submission of an accepted application" and by adding after "September 30, 2009." the following sentence: "The Department shall provide information and recommendations to the 2009 General Assembly so that it may consider whether to authorize the Department to contract with an outside vendor for these functions beyond September 30, 2009."

SECTION 1.5.(b) Section 10.17(cc) of S.L. 2008-107 is amended by adding to the list of membership organizations the following:

"(9) Association of Local Health Directors."

SECTION 1.6.(a) Section 10.10(e) of S.L. 2008-107 is amended by deleting "\$1,500)." and substituting "\$1,500) per month."

SECTION 1.6.(b) The lead sentence of Section 10.13(k) of S.L. 2008-107 is amended by deleting "subsection (g)" and substituting "subsection (f)".

SECTION 1.6.(c) Section 10.13(n) of S.L. 2008-107 is amended by deleting "(k) of this section" and substituting "(j) of this section".

SECTION 1.6.(d) Section 10.14(c)(1) of S.L. 2008-107 reads as rewritten:

"(1) The number of children ~~that were enrolled in NC Health Choice in the first week of January 2009, based on the January Pull-Night data; and~~ for the month of January 2009, as determined by using December 2008 Pull-Night data."

SECTION 1.6.(e) Section 10.15(b) of S.L. 2008-107 is amended by deleting "2007-2008 and 2008-2009 fiscal years," and substituting "2008-2009 fiscal year,".

SECTION 1.6.(f) Section 10.15(n) of S.L. 2008-107 reads as rewritten:

SECTION 10.15.(n) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of six million one hundred thirteen thousand nine hundred forty-seven dollars (\$6,113,947) shall be allocated for walk-in crisis and immediate psychiatric aftercare and shall be distributed to the LMEs according to need as determined by the Department to support 30 psychiatrists and related support staff. Of these funds, the sum of one million six hundred fifty thousand dollars (\$1,650,000) shall be used for telepsychiatry equipment to be owned by the LMEs ~~and shall be distributed across the State according to need as determined by the Department LMEs.~~

SECTION 1.7. Notwithstanding any provision in S.L. 2008-107 to the contrary, the elimination of the budget for the closed dispute resolution center in the 1st District is a reduction of fifty-one thousand nine hundred seventy-seven dollars (\$51,977).

PART II. CLARIFYING CHANGES

SECTION 2.1.(a) Section 5.2(a1) of S.L. 2008-107 reads as rewritten:

"**SECTION 5.2.(a1)** Notwithstanding G.S. 18C-164(f), if (i) the actual net lottery revenues for the 2007-2008 fiscal year exceed the amounts appropriated in the 2007-2008 fiscal year, (ii) the actual net lottery revenues for the 2008-2009 fiscal year exceed the amounts appropriated in the 2008-2009 fiscal year, or (iii) both, the excess net revenue is also transferred from the State Lottery Fund to support appropriations made in this act for the 2008-2009 fiscal year."

SECTION 2.1.(b) Section 5.2(d) of S.L. 2008-107 reads as rewritten:

"**SECTION 5.2.(d)** The excess lottery revenues for the 2007-2008 fiscal year, the 2008-2009 fiscal year, or both, that are transferred from the State Lottery Fund pursuant to subsection (a1) of this section are appropriated from the Education Lottery Fund for the 2008-2009 fiscal year for the Public School Building Capital Fund."

SECTION 2.1.(c) Section 7.11 of S.L. 2008-107 reads as rewritten:

"**SECTION 7.11.(a)** ~~Monies allocated~~ If monies appropriated to the Public School Building Capital Fund pursuant to ~~Section 5.2(b)~~ Section 5.2 of this act total one hundred fifty-four million two hundred thousand dollars (\$154,200,000) or more, the monies shall be allocated as follows:

- (1) The sum of one hundred forty million dollars (\$140,000,000) shall be allocated pursuant to G.S. 115C-546.2(d);
- (2) The remainder shall be allocated on the basis of average daily membership to local school administrative units that did not qualify for funding for the 2008-2009 fiscal year pursuant to G.S. 115C-546.2(d)(2). The maximum allocation shall be the amount received by other units pursuant to G.S. 115C-546.2(d)(2) on the basis of per average daily membership.

"**SECTION 7.11.(b)** If monies appropriated to the Public School Building Capital Fund pursuant to Section 5.2 of this act total less than one hundred fifty-four million two hundred thousand dollars (\$154,200,000), the monies shall be allocated as follows:

- (1) The sum of two million five hundred thousand dollars (\$2,500,000) shall be allocated each quarter for the first and second quarters on the basis of average daily membership to local school administrative units that did not qualify for funding for the 2008-2009 fiscal year pursuant to G.S. 115C-546.2(d)(2). The remainder shall be allocated each quarter pursuant to G.S. 115C-546.2(d).
- (2) The sum of four million six hundred thousand dollars (\$4,600,000) shall be allocated each quarter for the third and fourth quarters on the basis of average daily membership to local school administrative units that did not qualify for funding for the 2008-2009 fiscal year pursuant to G.S. 115C-546.2(d)(2). The remainder shall be allocated each quarter pursuant to G.S. 115C-546.2(d)."

SECTION 2.2. Section 6.12(a) of S.L. 2008-107 reads as rewritten:

"**SECTION 6.12.(a)** Funds. – Of the funds appropriated to the Office of Information Technology Services (ITS) for the 2008-2009 fiscal year, in consultation with the Department of Cultural Resources and the Secretary of State, the sum of two hundred thousand dollars (\$200,000) shall be used to pilot a statewide electronic document management system that will include a digital signature capability. ITS shall identify a State agency for the pilot, which shall develop the following program requirements:

- (1) Creation of a uniform and consistent set of policies and procedures for managing and preserving electronic records through their life cycle in an efficient, effective, and economical manner.
- (2) Development, establishment, and promotion of statewide electronic records management training and certification programs.
- (3) Promotion of the use of public records in digital format.
- (4) Development of statewide procurement standards for the electronic records infrastructure.
- (5) Provision of guidance and assistance to all customers on issues relating to public records in digital formats including, but not limited to, e-mail, e-commerce, electronic signature encryption, filings, public Web pages, metadata, and system documentation."

SECTION 2.3. Section 6.16(b) of S.L. 2008-107 reads as rewritten:

"SECTION 6.16.(b) The State Controller shall serve as the Chairman of the BEACON Project Steering Committee. The other members of the committee shall be the State Chief Information Officer, the State Treasurer, the Attorney General, the Secretary of Correction, the Administrative Officer of the Courts, the State Budget Officer, the Secretary of Administration, and the Chief Financial Officer of the Department of Transportation."

SECTION 2.4. Notwithstanding any provision in S.L. 2008-107 to the contrary, funds appropriated in that act for the Medicaid appeals process shall be used to implement a new appeals process when Medicaid-funded services are terminated, reduced, or denied.

SECTION 2.5. G.S. 143B-480.2, as amended by Section 18.2(a) of S.L. 2008-107 reads as rewritten:

"§ 143B-480.2. Victim assistance.

(a) **Eligibility for Assistance.** – Sexual assault victims or victims of attempted sexual assault are eligible for assistance under this Program if the sexual assault or the attempted sexual assault is reported to a law enforcement officer within 72 hours of the occurrence of the assault or the attempted sexual assault and if a forensic medical examination is performed within 72 hours of the sexual assault or the attempted sexual assault. The Secretary may waive either 72-hour requirement for good cause. The term "sexual assault" as used in this section refers to the following crimes: first-degree rape as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, first-degree sexual offense as defined in G.S. 14-27.4, second-degree sexual offense as defined in G.S. 14-27.5, or statutory rape as defined in G.S. 14-27.7A.

(b) **Eligible Expenses.** – Assistance is limited to the following expenses incurred by the victim:

- (1) Immediate and short-term medical expenses.
- (2) Ambulance services from the place of the attack to a place where medical treatment is provided.
- (3) Mental health services provided by a professional licensed or certified by the State to provide such services.
- (4) A forensic medical examination. As used in this section, the term "forensic medical examination" means an examination provided to a sexual assault victim eligible for assistance under subsection (a) of this section by medical personnel who gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should

include an examination of physical trauma, a patient interview, and a collection and evaluation of evidence.

(5) Counseling treatment following the attack.

(c) Amount of Assistance. – The Program shall pay for the full out-of-pocket cost of the victim's forensic medical examination up to eight hundred dollars (\$800.00). Specifically, the Program shall pay amounts for services in accordance with the following schedule:

Service:	Maximum Amount Paid by Program:
Physician or SANE Nurse	\$350.00
Hospital/Facility Fee	\$250.00
Ambulance Fee	\$200.00
 Total:	 \$800.00

As used in this subsection, the term 'SANE Nurse' means a licensed registered nurse trained under G.S. 90-171.38(b) who obtains preliminary histories, conducts in-depth interviews, and conducts medical examinations of rape victims or victims of related sexual offenses. The Program shall pay for all other eligible expenses set out in subsection (b) of this section in an amount not to exceed the difference between the full out-of-pocket cost of the forensic medical examination and one thousand dollars (\$1,000). Assistance not to exceed fifty dollars (\$50.00) shall be provided to victims to replace clothing that was held for evidence tests.

(d) Payment Directly to Provider. – If the entity seeking payment for expenses authorized under this section is a hospital, ambulance service, or mental health professional providing counseling, the Program shall make payment directly to that entity upon the filing of proper forms. If the entity seeking payment for expenses authorized under this section is an attending physician or licensed registered nurse, the Program shall make payment to a hospital, which shall then pay the entity seeking payment. Attending physicians and licensed registered nurses shall not bill or otherwise seek payment directly from the Program, but shall instead seek payment from the hospital that accepted payment on the entity's behalf. No payment for the cost of the forensic medical examination shall be made under this subsection unless the recipient agrees in writing that receipt of that payment shall constitute payment in full for the amount owed for the cost of the examination and expenses related to the examination.

(e) Judicial Review. – Upon an adverse determination by the Secretary on a claim for ~~medical expenses~~ assistance under this Part, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

(f) The Secretary shall adopt rules to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures."

SECTION 2.6. Section 19A.3(b) of S.L. 2008-107 reads as rewritten:

"**SECTION 19A.3.(b)** The Department of Cultural Resources shall report on the cARTwheels Program to the Joint Legislative Commission on Governmental Operations by ~~September 1, 2008~~ December 1, 2008. The report shall include the following:

- (1) A detailed summary of the competitive application process used to select the professional performing arts groups for the 2008-2009 fiscal year.
- (2) A list of professional performing arts groups that submitted applications for the 2008-2009 fiscal year.
- (3) The allocation of the funding appropriated in the 2008-2009 fiscal year to the professional performing arts groups selected.
- (4) The schedule of performances for the 2008-2009 fiscal year."

SECTION 2.7.(a) Notwithstanding any provision of S.L. 2008-107 to the contrary, the constitutional authority to issue general obligation bonds to complete construction of the Green Square Project is Article V, Section 3(1) of the North Carolina Constitution.

SECTION 2.7.(b) Section 27.3(e) of S.L. 2008-107 is amended by deleting the phrase "to the Energy Efficiency Reserve created in subsection (c) of this section." and substituting the phrase "for energy efficiency projects consistent with subsection (c) of this section."

SECTION 2.7.(c) Section 27.9(d) of S.L. 2008-107 is amended by inserting between the words "time" and "general" the phrase "in the fiscal year ending June 30, 2009".

SECTION 2.7.(d) Section 27.9(f) of S.L. 2008-107 is amended by deleting the phrase "any changes in projects" and substituting the phrase "the status of the project".

SECTION 2.8. Nonrecurring funds appropriated to the Department of Commerce for the 2008-2009 fiscal year for the North Carolina Minority Support Center, Inc., for the 2008-2009 fiscal year shall be used by the Center to expand economic development lending and financial literacy.

SECTION 2.9.(a) Section 29.8(g) of S.L. 2008-107 reads as rewritten:

"**SECTION 29.8.(g)** Subsections ~~(a)~~ ~~(b)~~ through (e) of this section become effective July 20, 2008, and apply to all costs assessed and collected on or after that date. Subsection (a) of this section becomes effective July 20, 2008, and applies to all costs assessed and collected on or after that date, except that in misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date, the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a) of this section, or those specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs are specified in that notice. The remainder of this section becomes effective July 1, 2008."

SECTION 2.9.(b) G.S. 20-20.1(d) reads as rewritten:

"(d) Petition. – A person may apply for a limited driving privilege under this section by filing a petition. A petition filed under this section is separate from the action that resulted in the initial revocation and is a civil action. A petition must be filed in district court in the county of the person's residence as reflected by the Division's records or, if the Division's records are inaccurate, in the county of the person's actual residence. A person must attach to a petition a copy of the person's motor vehicle record. A petition must include a sworn statement that the person filing the petition is eligible for a limited driving privilege under this section.

A court, for good cause shown, may issue a limited driving privilege to an eligible person in accordance with this section. The costs required under G.S. 7A-305(a) ~~and~~

~~(a3)~~ and G.S. 20-20.2 apply to a petition filed under this section. The clerk of court for the court that issues a limited driving privilege under this section must send a copy of the limited driving privilege to the Division."

SECTION 2.9.(c) G.S. 7A-305(a3) and (a4) are repealed.

PART III. OTHER MODIFICATIONS

SECTION 3.1. Notwithstanding any provision in S.L. 2008-107 to the contrary, the nursing and allied health program that will be housed at the UNC Upper Coastal Plain Higher Education and Health Center for which planning funds are provided in S.L. 2008-107 shall be run by East Carolina University, Edgecombe Community College, and Nash Community College.

SECTION 3.2.(a) G.S. 58-50-175(19) reads as rewritten:

"§ 58-50-175. **Definitions.**

The following definitions apply to this Part:

...

(19) '~~Special-Fund.~~' – The North Carolina Health Insurance Risk Pool ~~Special fund.~~ Fund.

...."

SECTION 3.2.(b) G.S. 58-50-225 reads as rewritten:

"§ 58-50-225. **North Carolina Health Insurance Risk Pool ~~Special-Fund.~~**

(a) The North Carolina Health Insurance Risk Pool ~~Special~~ Fund is established as ~~an interest-bearing, non-reverting account in the General Fund.~~ The Special Fund and consists of the following revenue:

- (1) Premiums, fees, charges, rebates, refunds, and any other receipts occurring or arising in connection with the Pool.
- (2) The revenue transferred to the Fund under G.S. 105-228.5B.
- (3) Gifts, grants, and other appropriations.
- (4) Any interest earned by the Fund.

(b) Disbursements from the ~~Special-Fund~~ shall include the amounts required to pay the claims, benefits, and administrative costs as may be determined by the Executive Director and the Board. ~~Disbursement from the Special Fund may be made by warrant drawn on the State Treasurer by the Executive Director, or the Executive Director and the Board may by contract authorize the Administrator to draw the warrant."~~

SECTION 3.2.(c) G.S. 58-50-235 reads as rewritten:

"§ 58-50-235. **Audit.**

An audit of the Pool shall be conducted annually under the oversight of the State Auditor. The cost of the audit shall be reimbursed to the State Auditor from the ~~Special~~ Fund."

SECTION 3.2.(d) Effective until June 30, 2010, G.S. 105-228.5B reads as rewritten:

"§ 105-228.5B. **Proceeds credited to High Risk Pool.**

Within 75 days after the end of each fiscal year, the State Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk Pool ~~Special-Fund~~ established in G.S. 58-50-225 an amount equal to the growth in net revenue from the tax applied to gross premiums under G.S. 105-228.5(d)(2). The growth in revenue from this tax is the difference between the amount of revenue collected during the preceding fiscal year on premiums taxed under that subdivision less \$475,545,413, which is the amount of revenue collected during fiscal year 2006-2007 on premiums taxed under that

subdivision. The Treasurer must draw the amount required under this section from revenue collected on premiums taxed under that subdivision."

SECTION 3.2.(e) Effective June 30, 2010, G.S. 105-228.5B reads as rewritten:

"§ **105-228.5B. ~~Proceeds credited to High Risk Pool.~~ Distribution of part of tax proceeds to High Risk Pool.**

Within 75 days after the end of each fiscal year, the State Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk Pool Fund established in G.S. 58-50-225 an amount equal to thirty percent (30%) of the growth in revenue from the tax applied to gross premiums under G.S. 105-228.5(d)(2). The growth in revenue from this tax is the difference between the amount of revenue collected during the preceding fiscal year on premiums taxed under that subdivision less \$475,545,413, which is the amount of revenue collected during fiscal year 2006-2007 on premiums taxed under that subdivision. The Treasurer must draw the amount required under this section from revenue collected on premiums taxed under that subdivision."

SECTION 3.2.(f) Section 2.1 of S.L. 2007-532 reads as rewritten:

"**SECTION 2.1.** In addition to the North Carolina Health Insurance Risk Pool ~~Special~~ Fund established under G.S. 58-50-225, as enacted in this act, there is established in the Department of Insurance two separate funds, as follows:

- (1) The Start-Up Reserve – State Funds. State funds appropriated to this Fund shall be used to support reasonable expenses for personnel to carry out the Board's responsibilities under the Pool, including contracting a third-party administrator. Funds shall be allocated by the Commissioner of Insurance for the reasonable expenses of the Board in conducting its duties under this Article that are incurred on or before July 1, 2009. At the end of the fiscal year, any unspent and unencumbered State funds and any interest or investment income earned on these funds shall not revert to the General Fund but shall be transferred to the North Carolina Health Insurance Risk Pool ~~Special~~ Fund.
- (2) The Start-Up Reserve – Federal Funds. Federal funds received in lump sum or as a draw-down grant for the purposes of this Article shall be deposited to this Reserve and shall be expended and accounted for in accordance with requirements of the federal grant."

SECTION 3.2.(g) Section 6 of S.L. 2007-532 reads as rewritten:

"**SECTION 6.** For the purposes of providing the funds necessary to carry out the powers and duties of the Pool, effective July 1, 2008, the Teachers' and State Employees' Comprehensive Major Medical Plan and any successor Plan shall pay an annual surcharge to the North Carolina Health Insurance Risk Pool ~~Special~~ Fund in the amount of one dollar and fifty cents (\$1.50) per member per year based on enrollment of active employee Plan members and their dependents covered under the Plan."

SECTION 3.2.(h) Subsection (e) of this section becomes effective June 30, 2010, and applies to the transfer at the end of fiscal year 2009-2010. The remainder of this section is effective when it becomes law.

SECTION 3.3. The Department of Public Instruction may use up to four hundred thirty thousand dollars (\$430,000) in funds appropriated for Learn and Earn Online for 14 planning grants for Learn and Earn sites in the 2008-2009 fiscal year.

SECTION 3.4. The Office of State Budget and Management may, after a request from the State Board of Education, provide from funds available in any agency in the budget up to one million dollars (\$1,000,000) for the 2008-2009 fiscal year to the Department of Public Instruction for efforts to inform eighth- and ninth-grade students about opportunities to gain access to college and to college coursework. These efforts should include, but not be limited to, strategies to ensure that parents, administrators, teachers, and students are fully informed about the Learn and Earn Online program, the Learn and Earn program, the UNC needs-based financial aid program, community college and UNC Online opportunities, and the EARN Grant.

The Department shall report no later than January 1, 2009, and June 30, 2009, to the Joint Legislative Education Oversight Committee on the use of any funds provided under this section.

SECTION 3.5. The Department of Crime Control and Public Safety shall use funds appropriated to the Department to keep and maintain the five North Carolina floodplain mapping positions that were not funded for fiscal year 2008-2009. The authority conferred by this section expires when the receipts of the Department received pursuant to G.S. 161-11.3 are sufficient to support these five positions.

SECTION 3.6.(a) Section 28.4(a) of S.L. 2007-323, as amended by Section 26.4(a) of S.L. 2008-107 reads as rewritten:

"**SECTION 28.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the 2008-2009 fiscal year are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$140,932
Associate Justice, Supreme Court	137,249
Chief Judge, Court of Appeals	133,817 135,061
Judge, Court of Appeals	131,531
Judge, Senior Regular Resident Superior Court	127,957
Judge, Superior Court	124,382
Chief Judge, District Court	112,946
Judge, District Court	109,372
District Attorney	119,305
Administrative Officer of the Courts	126,738
Assistant Administrative Officer of the Courts	115,763
Public Defender	119,305
Director of Indigent Defense Services	123,022".

SECTION 3.6.(b) The Administrative Office of the Courts shall use available salary reserve funds in the amount of one thousand two hundred forty-four dollars (\$1,244), plus the cost of benefits, to increase the salary of the Chief Judge, Court of Appeals, as provided by subsection (a) of this section. This additional salary increase is to restore the differential in the salary between the Chief Judge and the other judges in the Court of Appeals to pre-1994 levels and to increase the current differential such that it is approximately equivalent to the differential in salary between the Chief Justice and the other justices of the Supreme Court.

SECTION 3.8. Section 1.1 of S.L. 2004-179, as amended by Section 30.3A of S.L. 2005-276 and Section 2.1 of S.L. 2006-146, authorized the State to issue or incur special indebtedness in order to provide funds to the State for Western Carolina University to be used, together with other available funds, to pay the cost of land acquisition, site preparation, engineering, architectural, and other consulting services

and construction of a building 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.

Western Carolina University, the University of North Carolina at Asheville, and the Mountain Area Health Education Consortium may expend available funds, including appropriations, for the operation and maintenance of this facility.

SECTION 3.10.(a) 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 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.

- (2) Eligibility. – A facility is eligible under this subsection if it meets all 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 the required amount of private funds to 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 a development tier one area as defined in G.S. 143B-437.08 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). In the case of a computer manufacturing facility, the owner may invest these funds either directly or indirectly through a related entity or strategic partner as those terms are defined in G.S. 105-129.61. For the purpose of this subsection, the term "facility" has the same meaning as under G.S. 105-129.61.
 - c. If the facility is primarily engaged in financial services, securities operations, and related systems development, it satisfies all of the following conditions:
 1. It is owned and operated by the business for which the services are provided or by a related entity of that business as defined in G.S. 105-130.7A.
 2. No part of it is leased to a third-party tenant that is not a related entity of the business.

- d. If the facility is primarily engaged in solar electricity generating materials manufacturing, the business satisfies a wage standard at the facility. The wage standard is equal to one hundred five percent (105%) of the lesser of the average weekly wage for all insured private employers in the State and the average weekly wage for all insured private employers in the county. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to the amount required by this sub-subdivision. In making the wage calculation, the business must include any jobs that were filled for at least 1,600 hours during the calendar year.
- (3) Industries. – This subsection applies to the following industries:
- a. Air courier services. Air courier services has the same meaning as in G.S. 105-129.2.
 - b. Aircraft manufacturing. Aircraft manufacturing means the manufacturing or assembling of complete aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight deck systems or components, wings, fuselage fairings, fins, moving leading and trailing wing edges, wing boxes, nose sections, tailplanes, passenger doors, nacelles, thrust reversers, landing gear, braking systems, or any combination thereof.
 - c. 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 includes manufacturing or assembling computer peripheral equipment, such as storage devices, printers, monitors, input/output devices, and terminals only if the manufacture or assembly of this peripheral equipment occurs at a facility or campus at which the taxpayer also manufactures or assembles electronic computers.
 - e. Reserved for future codification purposes.
 - f. Financial services, securities operations, and related systems development. Financial services, securities operations, and related systems development means one or both of the following functions:
 1. Performing analysis, operations, trading, or sales functions for investment banking, securities dealing and brokering, securities trading and underwriting, investment portfolio/mutual fund management, retirement services, or employee benefit administration.
 2. Developing information technology systems and applications, managing and enhancing operating

- applications and databases, or providing, operating, and maintaining telecommunications networks and distributed and mainframe computing resources for investment banking, securities dealing and brokering, securities trading and underwriting, investment portfolio/mutual fund management, retirement services, or employee benefit administration.
- 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.
- h. Reserved for future codification purposes.
- i. Reserved for future codification purposes.
- 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.
- k. Reserved for future codification purposes.
- l. Reserved for future codification purposes.
- m. Semiconductor manufacturing. Semiconductor manufacturing means development and production of semiconductor material, devices, or components.
- n. Solar electricity generating materials manufacturing. Solar energy generating materials manufacturing means the development and production of one or more of the following:
1. Photovoltaic materials or modules used in producing electricity.

2. Polymers or polymer films primarily intended for incorporation into photovoltaic materials or modules used in producing electricity.
- (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. 105-241.21, 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.
- (5) Sunset. This subsection is repealed for sales made on or after January 1, 2013."

SECTION 3.10.(b) This section becomes effective July 1, 2008, and applies to purchases made on or after that date.

SECTION 3.11. Section 10.15A(i) of S.L. 2008-107 is amended by rewriting the last underlined sentence in subdivision (6) to read:

"Sixty days after the tiered rates required under subsection (b) of this section have been implemented by the Department, thirty-five percent (35%) of community support services must be delivered by qualified professionals. Six months thereafter fifty percent (50%) of community support services must be delivered by qualified professionals."

SECTION 3.12.(a) Part 7 of Article 12 of Chapter 143B of the General Statutes is repealed.

SECTION 3.12.(b) G.S. 143B-515(20) is repealed.

SECTION 3.12.(c) G.S. 143B-516(f) reads as rewritten:

"(f) The Department shall develop a cost-benefit model for each State-funded program. Program commitment and recidivism rates shall be components of the model. ~~In developing the model, the Department shall consider the recommendations of the state Advisory Council on juvenile Justice and Delinquency Prevention.~~"

SECTION 3.13.(a) Subsection 10.15A(h1) of S.L. 2008-107 is rewritten to read:

"SECTION 10.15A.(h1)

- (1) General Rule. – Notwithstanding any provision of State law or rules to the contrary, this subsection shall govern the process used by a Medicaid applicant or recipient to appeal a determination made by the Department of Health and Human Services to deny, terminate, suspend, or reduce Medicaid covered services. For purposes of this subsection, the phrase "adverse determination" means a determination by the Department to deny, terminate, suspend, or reduce Medicaid covered services. For purposes of this subsection, all references to an applicant or recipient include the applicant or recipient's parent, guardian, or legal representative; however, notice need only be given to a parent, guardian, or legal representative who has requested in writing to receive the notice.

- (2) Notice. – Except as otherwise provided by federal law or regulation, at least 30 days before the effective date of an adverse determination, the Department shall notify the applicant or recipient, and the provider, if applicable, in writing of the determination and of the applicant's or recipient's right to appeal the determination. The notice shall be mailed on the date indicated on the notice as the date of the determination. The notice shall include:
- a. An identification of the applicant or recipient whose services are being affected by the adverse determination, including full name and Medicaid identification number.
 - b. An explanation of what service is being denied, terminated, suspended, or reduced and the reason for the determination.
 - c. The specific regulation, statute, or medical policy that supports or requires the adverse determination.
 - d. The effective date of the adverse determination.
 - e. An explanation of the applicant's or recipient's right to appeal the Department's adverse determination in an evidentiary hearing before an administrative law judge.
 - f. An explanation of how the applicant or recipient can request a hearing and a statement that the applicant or recipient may represent himself or use legal counsel, a relative, or other spokesperson.
 - g. A statement that the applicant or recipient will continue to receive Medicaid services at the level provided on the day immediately preceding the Department's adverse determination or the amount requested by the applicant or recipient, whichever is less, if the applicant or recipient requests a hearing before the effective date of the adverse determination. The services shall continue until the hearing is completed and a final decision is rendered.
 - h. The name and telephone number of a contact person at the Department to respond in a timely fashion to the applicant's or recipient's questions.
 - i. The telephone number by which the applicant or recipient may contact a Legal Aid/Legal Services office.
 - j. The appeal request form described in subdivision (4) of this subsection that the applicant or recipient may use to request a hearing.
- (3) Appeals. – Except as provided by this subsection and subsection 10.15A(h2) of this act, a request for a hearing to appeal an adverse determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The applicant or recipient must request a hearing within 30 days of the mailing of the notice required by subdivision (2) of this subsection by sending an appeal request form to the Office of Administrative Hearings and the Department. The Department shall immediately forward a copy of the notice to the Office of Administrative Hearings electronically. The information contained in the notice is confidential unless the recipient appeals. The Office of

Administrative Hearings may dispose of the records after one year. The Department may not influence, limit, or interfere with the applicant's or recipient's decision to request a hearing.

- (4) Appeal Request Form. – Along with the notice required by subdivision (2) of this subsection, the Department shall also provide the applicant or recipient with an appeal request form which shall be no more than one side of one page. The form shall include the following:
- a. A statement that in order to request an appeal, the applicant or recipient must send the form by mail or fax to the address or fax number listed on the form within 30 days of mailing of the notice.
 - b. The applicant's or recipient's name, address, telephone number, and Medicaid identification number.
 - c. A preprinted statement that indicates that the applicant or recipient would like to appeal the specific adverse determination of which the applicant or recipient was notified in the notice.
 - d. A statement informing the applicant or recipient that he or she may choose to be represented by a lawyer, a relative, a friend, or other spokesperson.
 - e. A space for the applicant's or recipient's signature and date.
- (5) Final Decision. – After a hearing before an administrative law judge, the judge shall return the decision and record to the Department in accordance with subsection 10.15A(h2) of this act. The Department shall make a final decision in the case within 20 days of receipt of the decision and record from the administrative law judge and promptly notify the applicant or recipient of the final decision and of the right to judicial review of the decision pursuant to Article 4 of Chapter 150B of the General Statutes.

SECTION 3.13.(b) Section 10.15A of S.L. 2008-107 is amended by adding five new subsections to read:

"SECTION 10.15A.(h2)

- (1) Application. – This subsection applies only to contested Medicaid cases commenced by Medicaid applicants or recipients under subsection 10.15A(h1) of this act. Except as otherwise provided by subsection 10.15A(h1) and this subsection governing time lines and procedural steps, a contested Medicaid case commenced by a Medicaid applicant or recipient is subject to the provisions of Article 3 of Chapter 150B. To the extent any provision in this subsection or subsection 10.15A(h1) of this act conflicts with another provision in Article 3 of Chapter 150B, this subsection and subsection 10.15A(h1) controls.
- (2) Simple Procedures. – Notwithstanding any other provision of Article 3 of Chapter 150B of the General Statutes, the chief administrative law judge may limit and simplify the procedures that apply to a contested Medicaid case involving a Medicaid applicant or recipient in order to complete the case as quickly as possible. To the extent possible, the Hearings Division shall schedule and hear contested Medicaid cases within 45 days of submission of a request for appeal. The simplified

procedure may include requiring that all prehearing motions be considered and ruled on by the administrative law judge in the course of the hearing of the case on the merits. An administrative law judge assigned to a contested Medicaid case shall make reasonable efforts in a case involving a Medicaid applicant or recipient who is not represented by an attorney to assure a fair hearing and to maintain a complete record of the hearing. The administrative law judge may allow brief extensions of the time limits contained in this section for good cause and to ensure that the record is complete. Good cause includes delays resulting from untimely receipt of documentation needed to render a decision and other unavoidable and unforeseen circumstances.

- (3) **Mediation.** – Upon receipt of an appeal request form as provided by subdivision 10.15A(h1)(4) of this act or other clear request for a hearing by a Medicaid applicant or recipient, the chief administrative law judge shall immediately notify the Mediation Network of North Carolina which shall within five days contact the petitioner to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. If mediation is successful, the mediator shall inform the Hearings Division, which shall confirm with the agency that a settlement has been achieved, and the case shall be dismissed. If the petitioner rejects the offer of mediation or the mediation is unsuccessful, the mediator shall notify the Hearings Division that the case will proceed to hearing. Nothing in this subdivision shall restrict the right to a contested case hearing.
- (4) **Burden of Proof.** – The petitioner has the burden of proof to show entitlement to a requested benefit or the propriety of requested agency action when the agency has denied the benefit or refused to take the particular action. The agency has the burden of proof when the appeal is from an agency determination to impose a penalty or reduce, terminate, or suspend a benefit previously granted. The party with the burden of proof on any issue has the burden of going forward, and the administrative law judge shall not make any ruling on the preponderance of evidence until the close of all evidence.
- (5) **Decision.** – The administrative law judge assigned to a contested Medicaid case shall hear and decide the case without unnecessary delay. The Hearings Division shall send a copy of the audiotape or diskette of the hearing to the agency within five days of completion of the hearing. The judge shall prepare a written decision and send it to the parties. The decision must be sent together with the record to the agency within 20 days of the conclusion of the hearing.

"SECTION 10.15A.(h3) From funds available to the Department of Health and Human Services for the 2008-2009 fiscal year, the sum of two million dollars (\$2,000,000) shall be transferred by the Department of Health and Human Services to the Office of Administrative Hearings. These funds shall be allocated by the Office of Administrative Hearings for mediation services provided for Medicaid applicant and recipient appeals and to contract for other services necessary to conduct the appeals process.

"SECTION 10.15A.(h4) Effective October 1, 2008, the Department of Health and Human Services shall discontinue its current informal appeals process for Medicaid applicants and recipients appealing a determination made by the Department to deny, terminate, suspend, or reduce Medicaid covered services. All such informal appeals by Medicaid applicants or recipients under the current system which are pending on that date and for which a hearing has not been held shall be discontinued and the applicant or recipient offered an opportunity to appeal to the Office of Administrative Hearings in accordance with the provisions of subsection 10.15A(h1) of this act. The Department shall make every effort to resolve or settle all of the backlogged cases prior to the effective date of this act.

"SECTION 10.15A.(h5) Nothing in this act shall prevent the Department of Health and Human Services from engaging in an informal review of the case with the applicant or recipient prior to issuing a notice of adverse determination as provided by subsection 10.15A(h1) of this act.

"SECTION 10.15A.(h6) The appeals process for Medicaid applicants and recipients established under this section shall expire July 1, 2010. The Department of Health and Human Services and the Office of Administrative Hearings shall each report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on March 1, 2009, October 1, 2009, and March 1, 2010, on the costs, effectiveness, and efficiency of the appeals process for Medicaid applicants and recipients and make recommendations regarding the continuation of the process."

PART IV. EFFECTIVE DATE

SECTION 4.1. This act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 5:31 p.m. on the 28th day of July, 2008.

Session Law 2008-119

S.B. 4

AN ACT TO IMPROVE THE COLLECTION AND REPORTING OF RACE AND ETHNICITY DATA TO PUBLIC HEALTH OFFICIALS AND TO THE STATEWIDE DATA PROCESSOR.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-16. Collection and reporting of race and ethnicity data.

All medical care providers required by the provisions of this Chapter to report to the Division of Public Health shall collect and document patient self-reported race and ethnicity data and shall include such data in their reports to the Division."

SECTION 2. G.S. 131E-214.1 reads as rewritten:

"§ 131E-214.1. Definitions.

As used in this Article:

- (1) "Division" means the Division of Health Service Regulation of the Department of Health and Human Services.

- (2) "Freestanding ambulatory surgical facility" means a facility licensed under Part D of Article 6 of this Chapter.
- (3) "Hospital" means a facility licensed under Article 5 of this Chapter or Article 2 of Chapter 122C of the General Statutes, but does not include the following:
 - a. A facility with all of its beds designated for medical type "LTC" (long-term care).
 - b. A facility with the majority of its beds designated for medical type "PSY-3" (mental retardation).
 - c. A facility operated by the North Carolina Department of Correction.
- (4) "Patient data" means data that includes a patient's age, sex, race, ethnicity, zip code, third-party coverage, principal and other diagnosis, date of admission, procedure and discharge date, principal and other procedures, total charges and components of the total charges, attending physician identification number, and hospital or freestanding ambulatory surgical facility identification number.
- (5) "Patient identifying information" means the name, address, social security number, or similar information by which the identity of a patient can be determined with reasonable accuracy and speed either directly or by reference to other publicly available information. The term does not include a number assigned to a patient by a health care provider if that number does not consist of or contain numbers, including social security or drivers license numbers, that could be used to identify a patient with reasonable accuracy and speed from sources external to the health care provider.
- (6) "Statewide data processor" means a data processor certified by the Division as capable of complying with the requirements of G.S. 131E-214.4. The Division may deny, suspend, or revoke a certificate, in accordance with Chapter 150B of the General Statutes, if the statewide data processor does not comply with or is not capable of complying with the requirements of G.S. 131E-214.4. The Division is authorized to promulgate rules concerning the receipt, consideration, and limitation of a certificate applied for or issued under this Article."

SECTION 3. This act becomes effective January 1, 2010.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 5:36 p.m. on the 28th day of July, 2008.

Session Law 2008-120

S.B. 175

AN ACT TO ENACT THE INTERSTATE WILDLIFE VIOLATOR COMPACT IN NORTH CAROLINA.

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 22B."Interstate Wildlife Violator Compact."§ 113-300.5. Short title.This Article may be cited as the "Interstate Wildlife Violator Compact.""§ 113-300.6. Governor to execute compact; form of compact.The Governor shall execute an Interstate Wildlife Violator Compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:Article I.Findings, Declaration of Policy, and Purpose.(a) The party states find that:

- (1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.
- (2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those resources.
- (3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of these natural resources.
- (4) Wildlife resources are valuable without regard to political boundaries; therefore, all persons should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.
- (5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.
- (6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.
- (7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:
 - a. Must post collateral or bond to secure appearance for a trial at a later date; or
 - b. If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or
 - c. Is taken directly to court for an immediate appearance.
- (8) The purpose of the enforcement practices described in subdivision (7) of this subsection is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.
- (9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's way

- after agreeing or being instructed to comply with the terms of the citation.
- (10) The practice described in subdivision (7) of this subsection causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.
- (11) The enforcement practices described in subdivision (7) of this subsection consume an undue amount of law enforcement time.
- (b) It is the policy of the party states to:
- (1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.
 - (2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a party state and treat this suspension as if it had occurred in their state.
 - (3) Allow violators to accept a wildlife citation, except as provided in subsection (b) of Article III, and proceed on the violator's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.
 - (4) Report to the appropriate party state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.
 - (5) Allow the home state to recognize and treat convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.
 - (6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.
 - (7) Maximize effective use of law enforcement personnel and information.
 - (8) Assist court systems in the efficient disposition of wildlife violations.
- (c) The purposes of this compact are to:
- (1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subsection (b) of this Article in a uniform and orderly manner.
 - (2) Provide for the fair and impartial treatment of wildlife violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

Article II.

Definitions.

Unless the context requires otherwise, the definitions in this Article apply through this compact and are intended only for the implementation of this compact:

- (1) "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.

- (2) "Collateral" means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.
- (3) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.
- (4) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.
- (5) "Court" means a court of law, including Magistrate's Court and the Justice of the Peace Court.
- (6) "Home state" means the state of primary residence of a person.
- (7) "Issuing state" means the party state which issues a wildlife citation to the violator.
- (8) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a party state.
- (9) "Licensing authority" means the department or division within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.
- (10) "Party state" means any state which enacts legislation to become a member of this wildlife compact.
- (11) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.
- (12) "State" means any state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico.
- (13) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.
- (14) "Terms of the citation" means those conditions and options expressly stated upon the citation.
- (15) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party state. "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

- (16) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.
- (17) "Wildlife officer" means any individual authorized by a party state to issue a citation for a wildlife violation.
- (18) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

Article III.

Procedures for Issuing State.

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subsection (b) of this Article, if the officer receives the person's personal recognizance that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable:

- (1) If not prohibited by local law or the compact manual; and
- (2) If the violator provides adequate proof of the violator's identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance required by subsection (c) of this Article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content as contained in the compact manual.

Article IV.

Procedures for Home State.

(a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's suspension procedures, and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual.

Article V.Reciprocal Recognition of Suspension.

All party states shall recognize the suspension of license privileges of any person by any state as if the violation on which the suspension is based had in fact occurred in their state and could have been the basis for suspension of license privileges in their state.

Article VI.Applicability of Other Laws.

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

Article VII.Compact Administrator Procedures.

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a Board of Compact Administrators is established. The Board of Compact Administrators shall be composed of one representative from each of the party states to be known as the Compact Administrator. The Compact Administrator shall be appointed by the head of the licensing authority of each party state and will serve and be subject to removal in accordance with the laws of the state the Compact Administrator represents. A Compact Administrator may provide for the discharge of the Compact Administrator's duties and the performance of the Compact Administrator's functions as a Board member by an alternate. An alternate shall not be entitled to serve unless written notification of the alternate's identity has been given to the Board of Compact Administrators.

(b) Each member of the Board of Compact Administrators shall be entitled to one vote. No action of the Board of Compact Administrators shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the Board of Compact Administrators shall be only at a meeting at which a majority of the party states are represented.

(c) The Board of Compact Administrators shall elect annually, from its membership, a Chair and Vice-Chair.

(d) The Board of Compact Administrators shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The Board of Compact Administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(f) The Board of Compact Administrators may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(g) The Board of Compact Administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions

of this compact. All procedures and forms adopted pursuant to Board of Compact Administrators action shall be contained in the compact manual.

Article VIII.

Entry into Compact and Withdrawal.

- (a) This compact shall become effective when it has been adopted by at least two states.
- (b) (1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the Chair of the Board of Compact Administrators.
- (2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:
- a. A citation of the authority by which the state is empowered to become a party to this compact;
 - b. Agreement to comply with the terms and provisions of the compact; and
 - c. That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.
- (3) The effective date of entry shall be specified by the applying state, but shall not be less than 60 days after notice has been given by the Chair of the Board of Compact Administrators or by the secretariat of the Board to each party state that the resolution from the applying state has been received.
- (c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the Compact Administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

Article IX.

Amendments to the Compact.

- (a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the Chair of the Board of Compact Administrators and may be initiated by one or more party states.
- (b) Adoption of an amendment shall require endorsement by all party states and shall become effective 30 days after the date of the last endorsement.

Article X.

Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

"§ 113-300.7. Appointment of Compact Administrator; implementation; rules; amendments.

(a) The Chair of the Wildlife Resources Commission shall appoint the Compact Administrator for North Carolina. The Compact Administrator shall serve at the pleasure of the Chair of the Wildlife Resources Commission.

(b) The Wildlife Resources Commission may suspend or revoke the license, privilege, or right of any person to hunt, fish, trap, possess, or transport wildlife in this State to the extent that the license, privilege, or right has been suspended or revoked by another compact member under the provisions of this Article.

(c) The Wildlife Resources Commission shall adopt rules necessary to carry out the purposes of this Article.

(d) Any proposed amendment to the Compact shall be submitted to the General Assembly as an amendment to G.S. 113-300.6. In order to be endorsed by the State of North Carolina as provided by subsection (b) of Article IX of the Compact, a proposed amendment to the Compact must be enacted into law.

"§ 113-300.8. Violations.

It is unlawful for a person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife has been suspended or revoked under the provisions of this Article to exercise that right or privilege within this State or to purchase or possess a license granting that right or privilege. A person who hunts, fishes, traps, possesses, or transports wildlife in this State or who purchases or possesses a license to hunt, fish, trap, possess, or transport wildlife in this State in violation of a suspension or revocation under this Article is guilty of a Class 1 misdemeanor."

SECTION 2. This act becomes effective October 1, 2008.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 5:38 p.m. on the 28th day of July, 2008.

Session Law 2008-121

H.B. 93

AN ACT TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO STUDY ISSUES RELATING TO INDIVIDUALS BEING TRANSPORTED IN VEHICLES WHILE SEATED IN WHEELCHAIRS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation shall study issues relating to the vehicular transportation of individuals seated in wheelchairs. The study shall include reviewing appropriate methods of transporting passengers who remain seated in wheelchairs while in motor vehicles and developing guidelines for the installation and use of wheelchair tie-down systems. The Department shall report its findings and any recommendations to the North Carolina Study Commission on Aging and the Joint Legislative Transportation Oversight Committee not later than February 1, 2009.

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, 2008.

Became law upon approval of the Governor at 5:41 p.m. on the 28th day of July, 2008.

Session Law 2008-122

S.B. 180

AN ACT TO CLARIFY THAT CERTAIN SERVER-BASED ELECTRONIC GAME PROMOTIONS ARE PROHIBITED.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 37 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-306.3. Certain game promotions unlawful.

(a) It is unlawful to promote, operate, or conduct a server-based electronic game promotion.

(b) It is unlawful for any person to possess any game terminal with a display that simulates a game ordinarily played on a slot machine regulated under G.S. 14-306 or a video gaming machine regulated under G.S. 14-306.1A for the purpose of promoting, operating, or conducting a server-based electronic game promotion.

(c) As used in this section, "server-based electronic game promotion" means a system that meets all of the following criteria:

- (1) A database contains a pool of entries with each entry associated with a prize value.
- (2) Participants purchase, or otherwise obtain by any means, a prepaid card.
- (3) With each prepaid card purchased or obtained, the participant also obtains one or more entries.
- (4) Entries may be revealed in any of the following ways:
 - a. At a point-of-sale terminal at the time of purchase or later.
 - b. At a game terminal with a display that simulates a game ordinarily played on a slot machine regulated under G.S. 14-306 or a video gaming machine regulated under G.S. 14-306.1A.

(d) Upon conviction or plea of guilty, all of the following held by the person shall be automatically revoked:

- (1) A permit issued under Chapter 18B of the General Statutes.
- (2) A contract to sell tickets or shares under Article 5 of Chapter 18C of the General Statutes.

(e) Nothing in this section shall apply to the form of Class III gaming legally conducted on Indian lands which are held in trust by the United States government for and on behalf of federally recognized Indian tribes if conducted in accordance with an approved Class III Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

SECTION 2. G.S. 14-298 reads as rewritten:

"§ 14-298. Seizure of illegal gaming items.

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. 14-306.1A, or any game terminal described in G.S. 14-306.3(b) 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. 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 3. G.S. 14-309 is amended by adding a new subsection to read:

"(c) Notwithstanding the provisions of subsection (a) of this section, any person violating the provisions of G.S. 14-306.3(b) involving the possession of five or more machines prohibited by that subsection is guilty of a Class G felony."

SECTION 4. This act becomes effective December 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 5:45 p.m. on the 28th day of July, 2008.

Session Law 2008-123

H.B. 685

AN ACT TO ALLOW THE NORTH CAROLINA PARTNERSHIP FOR CHILDREN, INC., TO RETAIN UNEXPENDED FUNDS FOR THE 2007-2008 FISCAL YEAR AND EACH FISCAL YEAR THEREAFTER.

The General Assembly of North Carolina enacts:

SECTION 1. Session Law 2008-107 is amended by adding a new section to read:

"ALLOW SMART START TO RETAIN UNEXPENDED FUNDS

SECTION 10.6A. Funds appropriated to the Department of Health and Human Services, Division of Child Development, for the North Carolina Partnership for Children, Inc., and allocated to local partnerships for the 2007-2008 fiscal year that are unexpended shall remain available to the North Carolina Partnership for Children, Inc., to reallocate to local partnerships."

SECTION 2. G.S. 143B-168.15 is amended by adding a new subsection to read:

"(h) State funds allocated to local partnerships that are unexpended at the end of a fiscal year shall remain available to the North Carolina Partnership for Children, Inc., to reallocate to local partnerships."

SECTION 3. This act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 5:46 p.m. on the 28th day of July, 2008.

Session Law 2008-124

H.B. 738

AN ACT TO REQUIRE UNINSURED AND UNDERINSURED MOTORIST COVERAGE; MAKE TECHNICAL CHANGES TO INSURANCE FINANCIAL PROVISIONS; AMEND THE UNAUTHORIZED INSURER LAWS; MAKE TECHNICAL CHANGES TO THE RATE EVASION LAW TO CLARIFY THAT IT APPLIES ONLY TO PRIVATE PASSENGER VEHICLES AND TO ADD A TERMINATION RESTRICTION CONSISTENT WITH G.S. 58-37-50 TO CLARIFY THAT THE RATE EVASION LAW APPLIES TO CEDED AND UNCEDED POLICIES; REVISE MANAGED CARE AND HMO RECORD RETENTION LAWS; MAKE CHANGES TO THE HEALTH INSURANCE RISK POOL LAWS; STRENGTHEN PROFESSIONAL EMPLOYER ORGANIZATION PROTECTIONS; MAKE CHANGES TO THE LAW GOVERNING THE CODE OFFICIALS QUALIFICATION BOARD; PROHIBIT FREE INSURANCE; AND TO MAKE OTHER MISCELLANEOUS CHANGES.

The General Assembly of North Carolina enacts:

PART I. UNINSURED AND UNDERINSURED MOTORIST COVERAGE.

SECTION 1.1. G.S. 20-279.21(b)(3) and (b)(4) read as rewritten:

"(b) Such owner's policy of liability insurance:

...

- (3) No policy of bodily injury liability insurance, covering liability arising out of the ownership, maintenance, or use of any motor vehicle, shall be delivered or issued for delivery in this State with respect to any motor vehicle registered or principally garaged in this State unless coverage is provided therein or supplemental thereto, under provisions filed with and approved by the Commissioner of Insurance, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles and hit-and-run motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom, ~~in an amount not to be less than the financial responsibility amounts for bodily injury liability as set forth in G.S. 20-279.5 nor greater than one million dollars (\$1,000,000), as selected by the policy owner. with limits equal to the highest limits of bodily injury liability coverage for any one vehicle insured under the policy. The named insured may purchase uninsured motorist bodily injury coverage with greater limits, subject to the limitation that in no event shall uninsured motorist bodily injury coverage limits exceed one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident. The insurer shall notify the named insured of his or her right to purchase uninsured motorist bodily injury coverage with greater limits, when the policy is issued and renewed, as provided in subsection (m) of this section.~~ The provisions shall include coverage for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of injury to or destruction of the property of such insured, with a limit in the aggregate for all insureds in any one accident ~~of up equal to the highest limits of property damage liability coverage for any one~~

~~vehicle insured in the owner's policy of liability insurance, and subject, for each insured, to an exclusion of the first one hundred dollars (\$100.00) of such damages. The provision shall further provide that a written statement by the liability insurer, whose name appears on the certification of financial responsibility made by the owner of any vehicle involved in an accident with the insured, that the other motor vehicle was not covered by insurance at the time of the accident with the insured shall operate as a prima facie presumption that the operator of the other motor vehicle was uninsured at the time of the accident with the insured for the purposes of recovery under this provision of the insured's liability insurance policy. The coverage required under this subdivision is not applicable where any insured named in the policy rejects the coverage. An insured named in the policy may select different coverage limits as provided in this subdivision. If the named insured in the policy does not reject uninsured motorist coverage and does not select different coverage limits, the amount of uninsured motorist coverage shall be equal to the highest limit of bodily injury and property damage liability coverage for any one vehicle in the policy. Once the option to reject the uninsured motorist coverage or to select different coverage limits is offered by the insurer, the insurer is not required to offer the option in any renewal, reinstatement, substitute, amended, altered, modified, transfer, or replacement policy unless the named insured makes a written request to exercise a different option. The selection or rejection of uninsured motorist coverage or the failure to select or reject by a named insured is valid and binding on all insureds and vehicles under the policy. Rejection of or selection of different coverage limits for uninsured motorist coverage for policies under the jurisdiction of the North Carolina Rate Bureau shall be made in writing by a named insured on a form promulgated by the Bureau and approved by the Commissioner of Insurance.~~

If a person who is legally entitled to recover damages from the owner or operator of an uninsured motor vehicle is an insured under the uninsured motorist coverage of a policy that insures more than one motor vehicle, that person shall not be permitted to combine the uninsured motorist limit applicable to any one motor vehicle with the uninsured motorist limit applicable to any other motor vehicle to determine the total amount of uninsured motorist coverage available to that person. If a person who is legally entitled to recover damages from the owner or operator of an uninsured motor vehicle is an insured under the uninsured motorist coverage of more than one policy, that person may combine the highest applicable uninsured motorist limit available under each policy to determine the total amount of uninsured motorist coverage available to that person. The previous sentence shall apply only to insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-10(1) and (2).

In addition to the above requirements relating to uninsured motorist insurance, every policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance or use of any motor

vehicle, which policy is delivered or issued for delivery in this State, shall be subject to the following provisions which need not be contained therein.

- a. A provision that the insurer shall be bound by a final judgment taken by the insured against an uninsured motorist if the insurer has been served with copy of summons, complaint or other process in the action against the uninsured motorist by registered or certified mail, return receipt requested, or in any manner provided by law; provided however, that the determination of whether a motorist is uninsured may be decided only by an action against the insurer alone. The insurer, upon being served as herein provided, shall be a party to the action between the insured and the uninsured motorist though not named in the caption of the pleadings and may defend the suit in the name of the uninsured motorist or in its own name. The insurer, upon being served with copy of summons, complaint or other pleading, shall have the time allowed by statute in which to answer, demur or otherwise plead (whether the pleading is verified or not) to the summons, complaint or other process served upon it. The consent of the insurer shall not be required for the initiation of suit by the insured against the uninsured motorist: Provided, however, no action shall be initiated by the insured until 60 days following the posting of notice to the insurer at the address shown on the policy or after personal delivery of the notice to the insurer or its agent setting forth the belief of the insured that the prospective defendant or defendants are uninsured motorists. No default judgment shall be entered when the insurer has timely filed an answer or other pleading as required by law. The failure to post notice to the insurer 60 days in advance of the initiation of suit shall not be grounds for dismissal of the action, but shall automatically extend the time for the filing of an answer or other pleadings to 60 days after the time of service of the summons, complaint, or other process on the insurer.
- b. Where the insured, under the uninsured motorist coverage, claims that he has sustained bodily injury as the result of collision between motor vehicles and asserts that the identity of the operator or owner of a vehicle (other than a vehicle in which the insured is a passenger) cannot be ascertained, the insured may institute an action directly against the insurer: Provided, in that event, the insured, or someone in his behalf, shall report the accident within 24 hours or as soon thereafter as may be practicable, to a police officer, peace officer, other judicial officer, or to the Commissioner of Motor Vehicles. The insured shall also within a reasonable time give notice to the insurer of his injury, the extent thereof, and shall set forth in the notice the time, date and place of the injury. Thereafter, on forms to be mailed by the insurer within 15 days following receipt of the notice of the accident to the insurer, the insured shall furnish to

insurer any further reasonable information concerning the accident and the injury that the insurer requests. If the forms are not furnished within 15 days, the insured is deemed to have complied with the requirements for furnishing information to the insurer. Suit may not be instituted against the insurer in less than 60 days from the posting of the first notice of the injury or accident to the insurer at the address shown on the policy or after personal delivery of the notice to the insurer or its agent. The failure to post notice to the insurer 60 days before the initiation of the suit shall not be grounds for dismissal of the action, but shall automatically extend the time for filing of an answer or other pleadings to 60 days after the time of service of the summons, complaint, or other process on the insurer.

Provided under this section the term "uninsured motor vehicle" shall include, but not be limited to, an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability within the limits specified therein because of insolvency.

An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tort-feasor becomes insolvent within three years after such an accident. Nothing herein shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to the insured than is provided herein.

In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of coverage, the insurer making payment shall, to the extent thereof, be entitled to the proceeds of any settlement for judgment resulting from the exercise of any limits of recovery of that person against any person or organization legally responsible for the bodily injury for which the payment is made, including the proceeds recoverable from the assets of the insolvent insurer.

For the purpose of this section, an "uninsured motor vehicle" shall be a motor vehicle as to which there is no bodily injury liability insurance and property damage liability insurance in at least the amounts specified in subsection (c) of G.S. 20-279.5, or there is that insurance but the insurance company writing the insurance denies coverage thereunder, or has become bankrupt, or there is no bond or deposit of money or securities as provided in G.S. 20-279.24 or 20-279.25 in lieu of the bodily injury and property damage liability insurance, or the owner of the motor vehicle has not qualified as a self-insurer under the provisions of G.S. 20-279.33, or a vehicle that is not subject to the provisions of the Motor Vehicle Safety and Financial Responsibility Act; but the term "uninsured motor vehicle" shall not include:

- a. A motor vehicle owned by the named insured;
- b. A motor vehicle that is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;

- c. A motor vehicle that is owned by the United States of America, Canada, a state, or any agency of any of the foregoing (excluding, however, political subdivisions thereof);
- d. A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle; or
- e. A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

For purposes of this section "persons insured" means the named insured and, while resident of the same household, the spouse of any named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured, the motor vehicle to which the policy applies and a guest in the motor vehicle to which the policy applies or the personal representative of any of the above or any other person or persons in lawful possession of the motor vehicle.

Notwithstanding the provisions of this subsection, no policy of motor vehicle liability insurance applicable solely to commercial motor vehicles as defined in G.S. 20-4.01(3d) or applicable solely to fleet vehicles shall be required to provide uninsured motorist coverage. Any motor vehicle liability policy that insures both commercial motor vehicles as defined in G.S. 20-4.01(3d) and noncommercial motor vehicles shall provide uninsured motorist coverage in accordance with the provisions of this subsection in amounts equal to the highest limits of bodily injury and property damage liability coverage for any one noncommercial motor vehicle insured under the policy, subject to the right of the insured to purchase higher uninsured motorist bodily injury liability coverage limits as set forth in this subsection. For the purpose of the immediately preceding sentence, noncommercial motor vehicle shall mean any motor vehicle that is not a commercial motor vehicle as defined in G.S. 20-4.01(3d), but that is otherwise subject to the requirements of this subsection.

- (4) Shall, in addition to the coverages set forth in subdivisions (2) and (3) of this subsection, provide underinsured motorist coverage, to be used only with a policy that is written at limits that exceed those prescribed by subdivision (2) of this section and that afford uninsured motorist coverage as provided by subdivision (3) of this subsection, in an amount not to be less than the financial responsibility amounts for bodily injury liability as set forth in G.S. 20-279.5 nor greater than one million dollars (\$1,000,000) as selected by the policy owner. section, with limits equal to the highest limits of bodily injury liability coverage for any one vehicle insured under the policy. The named insured may purchase underinsured motorist coverage with greater limits, subject to the limitation that in no event shall the underinsured motorist coverage limits exceed one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident. The insurer shall notify the named insured of his or her right to purchase underinsured motorist coverage with greater limits, when the policy is issued and renewed, as provided in subsection (m) of this section. An

"uninsured motor vehicle," as described in subdivision (3) of this subsection, includes an "underinsured highway vehicle," which means a highway vehicle with respect to the ownership, maintenance, or use of which, the sum of the limits of liability under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of underinsured motorist coverage for the vehicle involved in the accident and insured under the owner's policy. For purposes of an underinsured motorist claim asserted by a person injured in an accident where more than one person is injured, a highway vehicle will also be an "underinsured highway vehicle" if the total amount actually paid to that person under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of underinsured motorist coverage for the vehicle involved in the accident and insured under the owner's policy. Notwithstanding the immediately preceding sentence, a highway vehicle shall not be an "underinsured motor vehicle" for purposes of an underinsured motorist claim under an owner's policy insuring that vehicle ~~if~~ unless the owner's policy insuring that vehicle provides underinsured motorist coverage with limits that are ~~less than or equal to~~ greater than that policy's bodily injury liability limits. For the purposes of this subdivision, the term "highway vehicle" means a land motor vehicle or trailer other than (i) a farm-type tractor or other vehicle designed for use principally off public roads and while not upon public roads, (ii) a vehicle operated on rails or crawler-treads, or (iii) a vehicle while located for use as a residence or premises. The provisions of subdivision (3) of this subsection shall apply to the coverage required by this subdivision. Underinsured motorist coverage is deemed to apply when, by reason of payment of judgment or settlement, all liability bonds or insurance policies providing coverage for bodily injury caused by the ownership, maintenance, or use of the underinsured highway vehicle have been exhausted. Exhaustion of that liability coverage for the purpose of any single liability claim presented for underinsured motorist coverage is deemed to occur when either (a) the limits of liability per claim have been paid upon the claim, or (b) by reason of multiple claims, the aggregate per occurrence limit of liability has been paid. Underinsured motorist coverage is deemed to apply to the first dollar of an underinsured motorist coverage claim beyond amounts paid to the claimant under the exhausted liability policy.

In any event, the limit of underinsured motorist coverage applicable to any claim is determined to be the difference between the amount paid to the claimant under the exhausted liability policy or policies and the limit of underinsured motorist coverage applicable to the motor vehicle involved in the accident. Furthermore, if a claimant is an insured under the underinsured motorist coverage on separate or additional policies, the limit of underinsured motorist coverage applicable to the claimant is the difference between the amount paid to the claimant under the exhausted liability policy or policies and the total limits of the claimant's underinsured motorist coverages as

determined by combining the highest limit available under each policy; provided that this sentence shall apply only to insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-15(9) and (10). The underinsured motorist limits applicable to any one motor vehicle under a policy shall not be combined with or added to the limits applicable to any other motor vehicle under that policy.

An underinsured motorist insurer may at its option, upon a claim pursuant to underinsured motorist coverage, pay moneys without there having first been an exhaustion of the liability insurance policy covering the ownership, use, and maintenance of the underinsured highway vehicle. In the event of payment, the underinsured motorist insurer shall be either: (a) entitled to receive by assignment from the claimant any right or (b) subrogated to the claimant's right regarding any claim the claimant has or had against the owner, operator, or maintainer of the underinsured highway vehicle, provided that the amount of the insurer's right by subrogation or assignment shall not exceed payments made to the claimant by the insurer. No insurer shall exercise any right of subrogation or any right to approve settlement with the original owner, operator, or maintainer of the underinsured highway vehicle under a policy providing coverage against an underinsured motorist where the insurer has been provided with written notice before a settlement between its insured and the underinsured motorist and the insurer fails to advance a payment to the insured in an amount equal to the tentative settlement within 30 days following receipt of that notice. Further, the insurer shall have the right, at its election, to pursue its claim by assignment or subrogation in the name of the claimant, and the insurer shall not be denominated as a party in its own name except upon its own election. Assignment or subrogation as provided in this subdivision shall not, absent contrary agreement, operate to defeat the claimant's right to pursue recovery against the owner, operator, or maintainer of the underinsured highway vehicle for damages beyond those paid by the underinsured motorist insurer. The claimant and the underinsured motorist insurer may join their claims in a single suit without requiring that the insurer be named as a party. Any claimant who intends to pursue recovery against the owner, operator, or maintainer of the underinsured highway vehicle for moneys beyond those paid by the underinsured motorist insurer shall before doing so give notice to the insurer and give the insurer, at its expense, the opportunity to participate in the prosecution of the claim. Upon the entry of judgment in a suit upon any such claim in which the underinsured motorist insurer and claimant are joined, payment upon the judgment, unless otherwise agreed to, shall be applied pro rata to the claimant's claim beyond payment by the insurer of the owner, operator or maintainer of the underinsured highway vehicle and the claim of the underinsured motorist insurer.

A party injured by the operation of an underinsured highway vehicle who institutes a suit for the recovery of moneys for those injuries and in such an amount that, if recovered, would support a claim under underinsured motorist coverage shall give notice of the

initiation of the suit to the underinsured motorist insurer as well as to the insurer providing primary liability coverage upon the underinsured highway vehicle. Upon receipt of notice, the underinsured motorist insurer shall have the right to appear in defense of the claim without being named as a party therein, and without being named as a party may participate in the suit as fully as if it were a party. The underinsured motorist insurer may elect, but may not be compelled, to appear in the action in its own name and present therein a claim against other parties; provided that application is made to and approved by a presiding superior court judge, in any such suit, any insurer providing primary liability insurance on the underinsured highway vehicle may upon payment of all of its applicable limits of liability be released from further liability or obligation to participate in the defense of such proceeding. However, before approving any such application, the court shall be persuaded that the owner, operator, or maintainer of the underinsured highway vehicle against whom a claim has been made has been apprised of the nature of the proceeding and given his right to select counsel of his own choice to appear in the action on his separate behalf. If an underinsured motorist insurer, following the approval of the application, pays in settlement or partial or total satisfaction of judgment moneys to the claimant, the insurer shall be subrogated to or entitled to an assignment of the claimant's rights against the owner, operator, or maintainer of the underinsured highway vehicle and, provided that adequate notice of right of independent representation was given to the owner, operator, or maintainer, a finding of liability or the award of damages shall be res judicata between the underinsured motorist insurer and the owner, operator, or maintainer of underinsured highway vehicle.

As consideration for payment of policy limits by a liability insurer on behalf of the owner, operator, or maintainer of an underinsured motor vehicle, a party injured by an underinsured motor vehicle may execute a contractual covenant not to enforce against the owner, operator, or maintainer of the vehicle any judgment that exceeds the policy limits. A covenant not to enforce judgment shall not preclude the injured party from pursuing available underinsured motorist benefits, unless the terms of the covenant expressly provide otherwise, and shall not preclude an insurer providing underinsured motorist coverage from pursuing any right of subrogation.

~~The coverage required under this subdivision shall not be applicable where any insured named in the policy rejects the coverage. An insured named in the policy may select different coverage limits as provided in this subdivision. If the named insured does not reject underinsured motorist coverage and does not select different coverage limits, the amount of underinsured motorist coverage shall be equal to the highest limit of bodily injury liability coverage for any one vehicle in the policy. Once the option to reject underinsured motorist coverage or to select different coverage limits is offered by the insurer, the insurer is not required to offer the option in any renewal, reinstatement, substitute, amended, altered, modified, transfer, or~~

~~replacement policy unless a named insured makes a written request to exercise a different option. The selection or rejection of underinsured motorist coverage by a named insured or the failure to select or reject is valid and binding on all insureds and vehicles under the policy.~~

~~Rejection of or selection of different coverage limits for underinsured motorist coverage for policies under the jurisdiction of the North Carolina Rate Bureau shall be made in writing by the named insured on a form promulgated by the Bureau and approved by the Commissioner of Insurance.~~

Notwithstanding the provisions of this subsection, no policy of motor vehicle liability insurance applicable solely to commercial motor vehicles as defined in G.S. 20-4.01(3d) or applicable solely to fleet vehicles shall be required to provide underinsured motorist coverage. Any motor vehicle liability policy that insures both commercial motor vehicles as defined in G.S. 20-4.01(3d) and noncommercial motor vehicles shall provide underinsured motorist coverage in accordance with the provisions of this subsection in an amount equal to the highest limits of bodily injury liability coverage for any one noncommercial motor vehicle insured under the policy, subject to the right of the insured to purchase higher underinsured motorist bodily injury liability coverage limits as set forth in this subsection. For the purpose of the immediately preceding sentence, noncommercial motor vehicle shall mean any motor vehicle that is not a commercial motor vehicle as defined in G.S. 20-4.01(3d), but that is otherwise subject to the requirements of this subsection."

SECTION 1.2. G.S. 20-279.21 is amended by adding the following new subsections to read:

"(m) Every insurer that sells motor vehicle liability policies subject to the requirements of subdivisions (b)(3) and (b)(4) of this section shall give reasonable notice to the named insured, when the policy is issued and renewed, that the named insured may purchase uninsured motorist bodily injury coverage and, if applicable, underinsured motorist coverage with limits up to one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident. An insurer shall be deemed to have given reasonable notice if it includes the following or substantially similar language on the policy's original and renewal declarations pages or in a separate notice accompanying the original and renewal declarations pages in at least 10 point type:

"NOTICE: YOU MAY PURCHASE UNINSURED MOTORIST BODILY INJURY COVERAGE AND, IF APPLICABLE, UNDERINSURED MOTORIST COVERAGE WITH LIMITS UP TO ONE MILLION DOLLARS (\$1,000,000) PER PERSON AND ONE MILLION DOLLARS (\$1,000,000) PER ACCIDENT. THIS INSURANCE PROTECTS YOU AND YOUR FAMILY AGAINST INJURIES CAUSED BY THE NEGLIGENCE OF OTHER DRIVERS WHO MAY HAVE LIMITED OR ONLY MINIMUM COVERAGE OR EVEN NO LIABILITY INSURANCE. YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT TO DISCUSS YOUR OPTIONS FOR OBTAINING THIS ADDITIONAL COVERAGE. YOU SHOULD ALSO READ YOUR ENTIRE POLICY TO UNDERSTAND WHAT IS COVERED UNDER UNINSURED AND UNDERINSURED MOTORIST COVERAGES."

(n) Nothing in this section shall be construed to provide greater amounts of uninsured or underinsured motorist coverage in a liability policy than the insured has purchased from the insurer under this section.

(o) An insurer that fails to comply with subsection (m) of this section is subject to a civil penalty under G.S. 58-2-70."

PART II. INSURANCE COMPANY FINANCIAL SOLVENCY PROVISIONS.

SECTION 2.1. G.S. 58-5-50 reads as rewritten:

"§ 58-5-50. Deposits of foreign life insurance companies.

In addition to other requirements of ~~Articles 1 through 64~~ of this Chapter, all foreign life insurance companies shall deposit securities, as specified in G.S. 58-5-20, ~~having that have~~ a market value of four hundred thousand dollars (\$400,000) as a prerequisite of doing business in this State. All foreign life insurance companies shall deposit an additional two hundred thousand dollars (\$200,000) where such companies cannot show three years of net ~~operational gains prior to admission.~~ income before being licensed in this State."

SECTION 2.2. The catch line of G.S. 58-10-145 reads as rewritten:

"§ 58-10-145. ~~Mono-line~~ Monoline requirement for mortgage guaranty insurers."

SECTION 2.3. G.S. 58-7-15(17) reads as rewritten:

"(17) "Credit insurance," meaning indemnifying merchants or other persons extending credit against loss or damage resulting from the nonpayment of debts owed to them; and including the incidental power to acquire and dispose of debts so insured, and to collect any debts owed to the insurer or to any person so insured by the insurer; and also including insurance where the debt is secured by either (a) a junior lien on real estate or (b) where the debt is secured by a first lien on real estate as long as (i) the purpose of the debt being insured is not for the purchase of the real estate and the insurance is limited to twenty-five percent (25%) of the insurer's aggregate insured risk outstanding, before reinsurance ceded or assumed or (ii) the insurance is not included within the definition of mortgage guaranty insurance."

SECTION 2.4. G.S. 58-5-71 reads as rewritten:

"§ 58-5-71. Liens of policyholders; subordination.

Liens against the deposit of a foreign insurer under G.S. 58-5-70 shall be subordinated to the reasonable and necessary expenses of the Commissioner in liquidating the deposit and paying the special deposit claims. 'Special deposit claims' has the same meaning set forth in G.S. 58-30-10(19)."

SECTION 2.5. G.S. 58-5-55 reads as rewritten:

"§ 58-5-55. Deposits of capital and surplus by domestic insurance companies.

(a) In addition to other requirements of Articles 1 through 64 of this Chapter, all domestic stock insurance companies shall deposit their required statutory capital with the ~~Department, Commissioner.~~ Such deposits shall be under the exclusive control of the ~~Department, Commissioner~~ for the protection of policyholders.

(b) In addition to other requirements of Articles 1 through 64 of this Chapter, all domestic mutual insurance companies shall deposit at least fifty percent (50%) of their minimum required surplus with the ~~Department, Commissioner,~~ with the amount of the deposit to be determined by the Commissioner. Such deposits shall be under the exclusive control of the ~~Department, Commissioner~~ for the protection of policyholders.

(c) Deposits fulfilling the requirements of this section shall comprise:

- (1) Interest-bearing bonds of the United States of America;
- (2) Interest-bearing bonds of the State of North Carolina or of its cities or counties; or
- (3) Certificates of deposit issued by any solvent bank domesticated in the State of North Carolina."

SECTION 2.6. G.S. 58-7-75 is amended by adding two new subdivisions to read:

"§ 58-7-75. **Amount of capital and/or surplus required; impairment of capital or surplus.**

...

(1a) Non-Stock Life Insurance Companies. – A nonstock corporation, not inclusive of a corporation organized pursuant to subdivision (6) of this section, may be organized in the manner prescribed in this Chapter and licensed to do the business of life insurance, only when it has a paid in initial surplus of at least one million five hundred thousand dollars (\$1,500,000) and it may in addition do the kind of business specified in G.S. 58-7-15(2), without having additional surplus. Every such corporation shall at all times thereafter maintain a minimum surplus of at least seven hundred fifty thousand dollars (\$750,000). Provided that, any such corporation may conduct the kind of insurance authorized for stock accident and health insurance companies, as set out in G.S. 58-7-15(3)a. and b., where its charter so permits, and only as long as it maintains a minimum surplus equal to the sum of the minimum surplus requirements of this subdivision and the minimum surplus requirements of subdivision (2a) of this section.

...

(2a) Non-Stock Accident and Health Insurance Companies.

a. A non-stock corporation, not inclusive of a corporation organized pursuant to subdivision (6) of this section, may be organized in the manner prescribed in this Chapter and licensed to do only the kind of insurance specified in G.S. 58-7-15(3)a. when it has a paid in initial surplus of at least one million dollars (\$1,000,000). Every such corporation shall at all times thereafter maintain a minimum surplus of at least five hundred thousand dollars (\$500,000).

b. Any non-stock corporation organized under the provisions of sub-subdivision a. of this subdivision may, by the provisions of its original charter or any amendment thereto, acquire the power to do the kind of business specified in G.S. 58-7-15(3)b., if it has a paid-in initial surplus of at least one million five hundred thousand dollars (\$1,500,000). Every such corporation shall at all times maintain a minimum surplus of at least seven hundred fifty thousand dollars (\$750,000)."

PART III. UNAUTHORIZED INSURER AMENDMENTS.

SECTION 3.1. The catch line for G.S. 58-28-5 reads as rewritten:

"§ 58-28-5. **Transacting business without ~~certificate of authority~~ a license prohibited; exceptions.**"

SECTION 3.2. G.S. 58-28-5(a) reads as rewritten:

"(a) Except as otherwise provided in this section, it is unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this State as set forth in ~~G.S. 58-28-10~~, G.S. 58-28-13 without a license issued by the Commissioner. This section does not apply to the following acts or transactions:

- (1) The procuring of a policy of insurance upon a risk within this State where the applicant is unable to procure coverage in the open market with admitted companies and is otherwise in compliance with Article 21 of this Chapter.
- (2) Contracts of reinsurance; but not including assumption reinsurance transactions, whereby the reinsuring company succeeds to all of the liabilities of and supplants the ceding company on the insurance contracts that are the subject of the transaction, unless prior approval has been obtained from the Commissioner.
- (3) Transactions in this State involving a policy lawfully solicited, written and delivered outside of this State covering only subjects of insurance not resident, located or expressly to be performed in this State at the time of issuance, and which transactions are subsequent to the issuance of such policy.
- (4) Transactions in this State involving group life insurance, group annuities, or group, blanket, or franchise accident and health insurance where the master policy for the insurance was lawfully issued and delivered in a state in which the company was authorized to transact business.
- (5) Transactions in this State involving all policies of insurance issued before July 1, 1967.
- (6) The procuring of contracts of insurance issued to a nuclear insured. As used in this subdivision, "nuclear insured" means a public utility procuring insurance against radioactive contamination and other risks of direct physical loss at a nuclear electric generating plant.
- (7) Insurance independently procured, as specified in subsection (b) of this section.
- (8) Insurance on vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine insurance policies, as distinguished from inland marine insurance policies.
- (9) Transactions in this State involving commercial aircraft insurance, meaning insurance against (i) loss of or damage resulting from any cause to commercial aircraft and its equipment, (ii) legal liability of the insured for loss or damage to another person's property resulting from the ownership, maintenance, or use of commercial aircraft, and (iii) loss, damage, or expense incident to a liability claim.
- (10) An activity in this State by or on the sole behalf of a captive insurer that insures solely the risks of the company's parent and affiliated companies."

SECTION 3.3. G.S. 58-28-40(a) reads as rewritten:

"(a) Any act of entering into a contract of insurance as an insurer or transacting insurance business in this State, as set forth in ~~G.S. 58-28-10~~ G.S. 58-28-12 by an unauthorized, foreign or alien company, shall be equivalent to and shall constitute an appointment by such company of the Secretary of State to be its true and lawful attorney

upon whom may be served all lawful process in any action or proceeding against it arising out of a violation of G.S. 58-28-5, and any of said acts shall be a signification of its agreement that any such process against it, which is so served, shall be of the same legal force and validity as if in fact served upon the company."

SECTION 3.4. Article 28 of Chapter 58 of the General Statutes is amended by adding three new sections to read:

"§ 58-28-12. Transacting insurance business in this State.

Definitions. – As used in this section, G.S. 58-28-13, and G.S. 58-28-14:

- (1) "Admitted insurer" means an insurer that is licensed to write insurance in this State.
- (2) "Kind of insurance" means one of the types of insurance specified in G.S. 58-7-15.
- (3) "Nonadmitted insurer" means an insurer that is not licensed to write insurance in this State.
- (4) "Transacting insurance business" or "transact insurance business" means:
 - a. The making of or proposing to make, as an insurer, an insurance contract.
 - b. The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.
 - c. The solicitation, taking, or receiving of an application for insurance.
 - d. The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for a contract of insurance or any part of the contract of insurance.
 - e. The issuance or delivery in this State of a contract of insurance to a resident of this State or to a person authorized to do business in this State.
 - f. The solicitation, negotiation, procurement, effectuation, or renewal of a contract of insurance.
 - g. The dissemination of information as to coverage or rates; forwarding of an application; delivery of a contract of insurance; inspection of a risk; the fixing of rates; the investigation or adjustment of a claim or loss; the transaction of matters after effectuation of a contract of insurance and arising out of the contract; or any other manner of representing or assisting a person or insurer in transacting insurance business with respect to properties, risks, or exposures located or to be performed in this State.
 - h. The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of this Chapter.
 - i. The offering of insurance or the transacting of insurance business.
 - j. The offering of an agreement or contract which purports to alter, amend, or void coverage of an insurance contract.

- k. The transaction of any matters before or after the execution of contracts of insurance in contemplation of or arising out of the execution.
- l. The maintaining of any agency or office in this State where any acts in furtherance of an insurance business are transacted, including the execution of contracts of insurance with citizens of this State or any other state.
- m. The maintaining of files or records of contracts of insurance in this State.

"§ 58-28-13. Placement of insurance business.

(a) An insurer shall not transact insurance business in this State unless it is an admitted insurer, is exempted by this Article, or is otherwise exempted by this Chapter.

(b) A person shall not transact insurance business or in this State directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, a nonadmitted insurer in the solicitation, negotiation, procurement, or effectuation of insurance, or renewals of insurance; forwarding of applications; delivery of policies or contracts; inspection of risks; fixing of rates; investigation or adjustment of claims or losses; collection or forwarding of premiums; or in any other manner represent or assist the insurer in transacting insurance business.

(c) A person who represents or aids a nonadmitted insurer in violation of this section is subject to penalties or restitution, or both, as set forth in this section.

(d) This section does not prohibit employees, officers, directors, or partners of a commercial insured from acting in the capacity of an insurance manager or buyer in placing insurance on behalf of the employer, provided that the person's compensation is not based on buying insurance.

(e) The venue of an act committed by mail or any other medium is at the point where the matter transmitted by mail or other medium is delivered or issued for delivery or takes effect.

(f) The remedies prescribed in this section are not exclusive. Penalties may also be assessed under Article 63 of this Chapter or G.S. 58-2-161, or both.

(g) If the Commissioner finds a violation of this section, the Commissioner may order the payment of a monetary penalty after considering the factors in G.S. 58-28-14; or petition the Superior Court of Wake County for an order directing payment of restitution as provided in subsection (i) of this section; or both. The monetary penalty shall not exceed five thousand dollars (\$5,000) for the first offense and shall not exceed ten thousand dollars (\$10,000) for each succeeding offense. Each day during which a violation occurs constitutes a separate violation. The clear proceeds of the penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to payment of any other penalty for a violation of the criminal laws of this State.

(h) Upon petition of the Commissioner, the Superior Court of Wake County may order the person who committed a violation specified in this section to make restitution in an amount that would make whole any person harmed by the violation. The petition may be made at any time and also in any appeal of any order issued by the Commissioner.

(i) Restitution to the Department for extraordinary administrative expenses incurred in the investigation and hearing of the violation may also be ordered by the court in such amount that would reimburse the Department for the expenses.

(j) Nothing in this section prevents the Commissioner from negotiating a mutually acceptable agreement with any person as to any civil penalty or restitution.

(k) The Attorney General of the State of North Carolina at the request of and upon information from the Commissioner shall initiate a civil action in behalf of the Commissioner in any county of the State in which a violation under this section occurs to recover the penalty provided. Service of process upon the nonadmitted insurer shall be made under G.S. 58-28-40.

"§ 58-28-14. Monetary penalty; factors to be considered.

In determining the amount of the penalty under G.S. 58-28-13, the Commissioner shall consider:

- (1) The amount of money that inured to the benefit of the violator as a result of the violation.
- (2) Whether the violation was committed willfully.
- (3) The prior record of the violator in complying or failing to comply with laws, rules, or orders applicable to the violator.
- (4) The failure of the violator to provide timely and complete responses to the Department's inquiries about the violator's insurance activities in North Carolina.
- (5) The extent and degree to which the violator marketed its insurance product in this State.
- (6) The extent to which the violator's marketing materials, including fax solicitations, Internet Web sites, circulars, or other forms of advertisement or solicitations through any medium, were deceptive or misleading to residents of this State.
- (7) The number of residents of this State who enrolled in the violator's insurance plan.
- (8) The number of policies and amount of insurance coverage issued by the violator to residents of this State.
- (9) The failure of the violator to promptly refund premiums and other consideration paid by residents of this State for insurance coverage issued by the violator upon requests by the residents of this State or the Department.
- (10) The extent and degree of harm to residents of this State. In assessing the extent and degree of harm, the Commissioner shall consider, among other things, the amount of premiums and other consideration paid by residents of this State for coverage issued by the violator, the failure of the violator to pay claims made by residents of this State, and number and dollar amount of claims made by residents of this State that the violator has failed to pay.
- (11) Whether the violator has a prior record of violating this Article or the unauthorized insurance laws of any other state. "Prior record" includes final administrative orders issued by the Commissioner or insurance regulator of any other state; federal or state criminal convictions, including pleas of guilty or nolo contendere; civil judgments; and written settlement agreements of state administrative proceedings, state or federal criminal proceedings, or civil lawsuits against the violator or any entity of which the violator was either a principal or owner."

SECTION 3.5. G.S. 58-28-10 is repealed.

PART IV. RATE EVASION TECHNICAL AMENDMENTS.

SECTION 4.1. G.S. 20-52(a)(4) reads as rewritten:

"(4) A statement that the owner is an eligible risk for insurance coverage as defined in ~~G.S. 58-37-1~~G.S. 58-37-1(4a)."

SECTION 4.2. G.S. 58-36-85(b) reads as rewritten:

"(b) Termination Restrictions. – An insurer shall not terminate a policy for a reason that is not specified in ~~G.S. 58-37-50(1) through (5) or G.S. 58-36-65(g), G.S. 58-2-164(g), 58-36-65(g), or 58-37-50~~. A termination of a policy is not effective unless the insurer either has notified a named insured of the termination by sending a written termination notice by first class mail to the insured's last known address or is not required by this subsection to send a written termination notice. Proof of mailing of a written termination notice is proof that the notice was sent.

An insurer is not required to send a written termination notice if any of the following applies:

- (1) The insurer has manifested its willingness to renew the policy by issuing or offering to issue a renewal policy, a certificate, or other evidence of renewal.
- (2) The insurer has manifested its willingness to renew the policy by any means not described in subdivision (1) of this subsection, including mailing a premium notice or expiration notice by first class mail to the named insured and the failure of the insured to pay the required premium on or before the premium due date.
- (3) A named insured has given written notification to the insurer or its agent that the named insured wants the policy to be terminated."

PART V. MANAGED CARE RECORD RETENTION AMENDMENTS AND HMO TECHNICAL AMENDMENT.

SECTION 5.1. G.S. 58-50-61(n) reads as rewritten:

"(n) Maintenance of Records. – Every insurer and URO shall maintain records of each review performed and each appeal received or reviewed, as well as documentation sufficient to demonstrate compliance with this section. The maintenance of these records, including electronic reproduction and storage, shall be governed by rules adopted by the Commissioner that apply to insurers. These records shall be retained by the insurer and URO for a period of ~~three-five years~~ or, for domestic companies, until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later."

SECTION 5.2. G.S. 58-50-62(d) reads as rewritten:

"(d) Maintenance of Records. – Every insurer shall maintain records of each grievance received and the insurer's review of each grievance, as well as documentation sufficient to demonstrate compliance with this section. The maintenance of these records, including electronic reproduction and storage, shall be governed by rules adopted by the Commissioner that apply to insurers. The insurer shall retain these records for ~~three-five years~~ or, for domestic companies, until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later."

SECTION 5.3. G.S. 58-67-50(e) reads as rewritten:

"(e) Effective January 1, 1989, every health maintenance organization shall provide at least minimum cost and utilization information for group contracts of 100 or more subscribers on an annual basis when requested by the group. Such information shall be compiled in accordance with the Data Collection Form developed by the

Standardized HMO Data Form Task Force as endorsed by the Washington Business Group on Health and the Group Health Association of America on November 19, 1986, and any subsequent amendments. In addition, beginning with data for the calendar year 1998, every HMO, for group contracts of 1,000 or more members, shall provide cost, use of service, prevention, outcomes, and other group-specific data as collected in accordance with the latest edition of the ~~Health Plan Employer Data and Information Set (HEDIS)~~ Healthcare Effectiveness Data and Information Set guidelines, as published by the National Committee for Quality Assurance. Beginning with data for the calendar year 1998, every HMO shall file with the Commissioner and make available to all employer groups, not later than July 1 of the following calendar year, a report of health benefit plan-wide experience on its costs, use of services, and other aspects of performance, in the ~~HEDIS-Healthcare Effectiveness and Information Set~~ Healthcare Effectiveness and Information Set format."

PART VI. HEALTH INSURANCE RISK POOL AMENDMENTS.

SECTION 6.1. G.S. 58-50-180(c) reads as rewritten:

"(c) The initial appointments by the Governor and the General Assembly upon the recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve a term of three years. The initial appointments by the Commissioner under sub-subdivisions a., b., and d. of subdivision (b)(3) of this section shall be for a term of two years. The initial appointments by the Commissioner under sub-subdivisions c., e., f., and g. of subdivision (b)(3) of this section shall be for a term of one year. All succeeding appointments shall be for terms of three years. Members shall not serve for more than two successive terms.

A Board member's term shall continue until the member's successor is appointed by the original appointing authority. Vacancies shall be filled by the appointing authority for the unexpired portion of the term in which they occur. A Board member may be removed by the appointing authority for cause.

The Board shall meet at least quarterly upon the call of the chair. A majority of the total membership of the Commission shall constitute a quorum.

The Commissioner shall appoint a chair to serve for the initial two years of the Plan's operation. Subsequent chairs shall be elected by a majority vote of the Board members and shall serve for two-year terms. Board members shall receive travel allowances under ~~G.S. 138-6~~ G.S. 138-5 when traveling to and from meetings of the ~~Board, Board or for official business of the Pool,~~ but shall not receive any ~~subsistence allowance or per diem~~ under G.S. 138-5, subdivision (a)(1) of that section."

SECTION 6.2. G.S. 58-50-180(e)(1) reads as rewritten:

"(e) The Pool shall have the general powers and authority granted under the laws of this State to health insurers and the specific authority to do all of the following:

- (1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this Part, including the authority, with the approval of the Executive Director ~~in collaboration with~~ acting upon the approval or authorization of the Board, to enter into contracts with similar plans of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions."

SECTION 6.3. G.S. 58-50-185(a) reads as rewritten:

"(a) The Executive Director, ~~in collaboration with~~ the approval or authorization of the Board, shall select through a competitive bidding process one or more insurers to administer the Pool. The Executive Director shall evaluate bids submitted based on

criteria established by the Board. The criteria shall allow for the comparison of information about each bidding administrator and selection of a Pool Administrator based on at least the following:

- (1) Proven ability to handle health insurance coverage to individuals.
- (2) Efficiency and timeliness of the claim processing procedures.
- (3) Estimated total charges for administering the Pool.
- (4) Ability to apply effective cost containment programs and procedures and to administer the Pool in a cost-efficient manner.
- (5) Financial condition and stability.
- (6) Evidence of authority to provide third-party administrative services in North Carolina."

SECTION 6.4. G.S. 58-50-195(d) reads as rewritten:

"(d) Coverage under the Pool shall cease:

- (1) On the date an individual is no longer a resident of this State.
- (2) On the date an individual requests coverage to end.
- (3) Upon the death of the covered individual.
- (4) On the date State law requires cancellation of the Pool policy.
- (5) At the option of the Pool, 30 days after the Pool makes any inquiry concerning the individual's eligibility or residence to which the individual does not reply.
- (6) Because the individual has failed to make the payments required under this Part.
- (7) Because the individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage."

SECTION 6.5. G.S. 58-50-210 reads as rewritten:

"§ 58-50-210. **Preexisting conditions.**

(a) Except as otherwise provided by law, Pool coverage shall exclude charges or expenses incurred during the first 12 months following the effective date of coverage as to any condition for which medical advice, care, or treatment was recommended or received as to such conditions during the 12-month period immediately preceding the effective date of coverage, except that no preexisting condition exclusion shall be applied to a federally defined eligible ~~individual~~individual or an individual who is eligible for the Pool because of his or her eligibility for the credit for health insurance costs under the Trade Adjustment Assistance Reform Act of 2002, section 35 of the Internal Revenue Code of 1986, pursuant to G.S. 58-50-195(a)(6).

~~(b) Subject to subsection (a) of this section, the preexisting condition exclusions shall be waived to the extent that similar exclusions, if any, have been satisfied under any prior health insurance coverage that was involuntarily terminated, provided that:~~

- ~~(1) Application for Pool coverage is made not later than 63 days following the involuntary termination, and in such case coverage in the Pool shall be effective from the date on which the prior coverage was terminated; and~~
- ~~(2) The applicant is not eligible for continuation or conversion rights that would provide coverage substantially similar to Pool coverage.~~

(c) The period of any preexisting condition exclusion shall be reduced by the aggregate of the periods of creditable coverage, if any, applicable as of the enrollment date. Credit for having satisfied some or all of the preexisting condition waiting period

under previous creditable coverage, as defined in G.S. 58-51-17(a)(1), shall be provided in accordance with G.S. 58-51-17."

PART VII. PEO AMENDMENTS.

SECTION 7.1. The catch line of G.S. 58-89A-50 reads as rewritten:

"§ 58-89A-50. Surety bond; ~~letter of credit~~; credit; other deposits."

SECTION 7.2. G.S. 58-89A-50(a) reads as rewritten:

"(a) An applicant for licensure shall file with the Commissioner a surety bond for the benefit of the Commissioner in the amount of one hundred thousand dollars (\$100,000) in favor of the State of North Carolina equal to five percent (5%) of the applicant's prior year's total North Carolina wages, benefits, workers compensation premiums, and unemployment compensation contributions, but not greater than five hundred thousand dollars (\$500,000), or such greater amount as the Commissioner may require."

SECTION 7.3. G.S. 58-89A-10 is repealed.

SECTION 7.4. G.S. 58-89A-105 reads as rewritten:

"§ 58-89A-105. Employee benefit plans; required disclosure; other reports.

(a) A licensee may sponsor and maintain employee benefit plans for the benefit of assigned employees. Any health insurance plan sponsored and maintained by a licensee shall only be fully insured by one of the following:

- (1) A licensed insurance company that is authorized to write accident and health insurance, as defined in G.S. 58-7-15(3).
- (2) A service corporation organized and licensed under Article 65 of this Chapter.
- (3) A health maintenance organization organized and licensed under Article 67 of this Chapter.

~~(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.~~ For the purposes of this section, a health insurance plan is fully insured only if all of the benefits provided under the plan are covered by an approved policy issued by one or more of the entities specified in subsection (a) of this section. A health insurance plan is not fully insured if the plan is any form of stop-loss insurance or any other form of reinsurance.

~~(e) Existing licensees shall comply with subsection (a) of this section by October 1, 2009. Before October 1, 2009, if an existing licensee sponsors and maintains any health insurance plan that is not fully insured by one or more of the entities specified in subsection (a) of this section, the licensee shall do all of the following:~~

- ~~(1) Use a third-party administrator licensed or registered under Article 56 of this Chapter.~~

- (2) Hold all plan assets, including participant contributions, in a trust account.
- (3) Provide sound reserves for the plan as determined by generally accepted actuarial standards."

PART VIII. CODE OFFICIALS QUALIFICATION BOARD AMENDMENTS.

SECTION 8.1. G.S. 143-151.13(a) reads as rewritten:

"(a) No person ~~may~~shall engage in Code enforcement ~~pursuant to~~under this Article unless ~~he~~that person possesses one of the following types of certificates, currently valid, issued by the Board attesting to ~~his~~that person's qualifications to ~~hold such position:~~ engage in Code enforcement: (i) a standard certificate; (ii) a limited certificate provided for in subsection ~~(e);~~(c) of this section; or (iii) a probationary certificate provided for in subsection ~~(d);~~(d) of this section. To obtain a standard certificate, a person must pass an examination, as prescribed by the ~~Board, which Board~~or by a contracting party under G.S. 143-151.16(d), that is based on the North Carolina State Building Code and administrative procedures required ~~to enforce the Code.~~for Code enforcement. The Board ~~shall~~may issue a standard certificate of qualification to each person who successfully completes the ~~examination authorizing the person named therein~~examination. The certificate authorizes that person to engage in Code enforcement and to practice as a qualified Code-enforcement official in North Carolina. The certificate of qualification shall bear the signatures of the chairman and secretary of the Board."

SECTION 8.2. G.S. 143-151.16(d) reads as rewritten:

"(d) ~~The Board may establish and collect a fee to be paid by each applicant for examination in an amount not to exceed one hundred twenty five dollars (\$125.00). In addition, the Board may establish and collect a fee to be paid by each applicant applying for a review of the applicant's examination. The amount of the examination review fee shall not exceed fifty dollars (\$50.00). Examination and examination review fees may be paid directly to approved testing services that maintain regional facilities for the purpose of administering the Board's examinations. The Board may contract with persons for the development and administration of the examinations required by G.S. 143-151.13(a), for course development related to the examinations, for review of a particular applicant's examination, and for other related services. The person with whom the Board contracts may charge applicants a reasonable fee for the costs associated with the development and administration of the examinations, for course development related to the examinations, for review of the applicant's examinations, and for other related services. The fee shall be agreed to by the Board and the other contracting party. The amount of the fee under this subsection shall not exceed one hundred seventy-five dollars (\$175.00). Contracts for the development and administration of the examinations, for course development related to the examinations, and for review of examinations shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 3D of Chapter 147 of the General Statutes."~~

PART IX. PROHIBITION AGAINST FREE INSURANCE.

SECTION 9.1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 44.

"Free Insurance.

"§ 66-380. Definitions.

As used in this Article:

- (1) "Consumer goods" means goods that are used primarily for personal, family, or household purposes. For the purposes of this Article, consumer goods do not include automobiles or residences.
- (2) "Free insurance" means any of the following:
 - a. Insurance for which no identifiable or additional charge is made to the purchaser or lessee of consumer goods or services directly or indirectly connected with the purchase of consumer goods.
 - b. Insurance for which an identifiable or additional charge is made in an amount less than the cost of such insurance as to the seller, lessor, or other person other than the insurer providing the insurance.

"§ 66-381. Free insurance.

No person shall advertise, offer, or provide free insurance for damage, loss, or theft as an inducement to the purchase, sale, or rental of consumer goods or services directly or indirectly connected with the purchase of consumer goods.

"§ 66-382. Unfair trade practice.

A violation of G.S. 66-381 constitutes an unfair trade practice under G.S. 75-1.1."

PART X. MISCELLANEOUS CHANGES.

SECTION 10.1. G.S. 58-3-191(a) reads as rewritten:

"(a) Each health benefit plan shall annually, on or before the first day of ~~March~~ May of each year, file in the office of the Commissioner the following information for the previous calendar year:

- (1) The number of and reasons for grievances received from plan participants regarding medical treatment. The report shall include the number of covered lives, total number of grievances categorized by reason for the grievance, the number of grievances referred to the second level grievance review, the number of grievances resolved at each level and their resolution, and a description of the actions that are being taken to correct the problems that have been identified through grievances received. Every health benefit plan shall file with the Commissioner, as part of its annual grievance report, a certificate of compliance stating that the carrier has established and follows, for each of its lines of business, grievance procedures that comply with G.S. 58-50-62.
- (2) The number of participants and groups who terminated coverage under the plan for any reason. The report shall include the number of participants who terminated coverage because the group contract under which they were covered was terminated, the number of participants who terminated coverage for reasons other than the termination of the group under which they were enrolled, and the number of group contracts terminated.
- (3) The number of provider contracts that were terminated and the reasons for termination. This information shall include the number of providers leaving the plan and the number of new providers. The report shall show voluntary and involuntary terminations separately.
- (4) Data relating to the utilization, quality, availability, and accessibility of services. The report shall include the following:

- a. Information on the health benefit plan's program to determine the level of network availability, as measured by the numbers and types of network providers, required to provide covered services to covered persons. This information shall include the plan's methodology for:
 - 1. Establishing performance targets for the numbers and types of providers by specialty, area of practice, or facility type, for each of the following categories: primary care physicians, specialty care physicians, nonphysician health care providers, hospitals, and nonhospital health care facilities.
 - 2. Determining when changes in plan membership will necessitate changes in the provider network.

The report shall also include: the availability performance targets for the previous and current years; the numbers and types of providers currently participating in the health benefit plan's provider network; and an evaluation of actual plan performance against performance targets.

- b. The health benefit plan's method for arranging or providing health care services from nonnetwork providers, both within and outside of its service area, when network providers are not available to provide covered services.
- c. Information on the health benefit plan's program to determine the level of provider network accessibility necessary to serve its membership. This information shall include the health benefit plan's methodology for establishing performance targets for member access to covered services from primary care physicians, specialty care physicians, nonphysician health care providers, hospitals, and nonhospital health care facilities. The methodology shall establish targets for:
 - 1. The proximity of network providers to members, as measured by member driving distance, to access primary care, specialty care, hospital-based services, and services of nonhospital facilities.
 - 2. Expected waiting time for appointments for urgent care, acute care, specialty care, and routine services for prevention and wellness.

The report shall also include: the accessibility performance targets for the previous and current years; data on actual overall accessibility as measured by driving distance and average appointment waiting time; and an evaluation of actual plan performance against performance targets. Measures of actual accessibility may be developed using scientifically valid random sample techniques.

- d. A statement of the health benefit plan's methods and standards for determining whether in-network services are reasonably available and accessible to a covered person, for the purpose of determining whether a covered person should receive the

- in-network level of coverage for services received from a nonnetwork provider.
- e. A description of the health benefit plan's program to monitor the adequacy of its network availability and accessibility methodologies and performance targets, plan performance, and network provider performance.
 - f. A summary of the health benefit plan's utilization review program activities for the previous calendar year. The report shall include the number of: each type of utilization review performed, noncertifications for each type of review, each type of review appealed, and appeals settled in favor of covered persons. The report shall be accompanied by a certification from the carrier that it has established and follows procedures that comply with G.S. 58-50-61.
- (5) Aggregate financial compensation data, including the percentage of providers paid under a capitation arrangement, discounted fee-for-service or salary, the services included in the capitation payment, and the range of compensation paid by withhold or incentive payments. This information shall be submitted on a form prescribed by the Commissioner.

The name, or group or institutional name, of an individual provider may not be disclosed pursuant to this subsection. No civil liability shall arise from compliance with the provisions of this subsection, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing."

SECTION 10.2. G.S. 58-21-65(b) reads as rewritten:

"(b) The Commissioner shall issue a surplus lines license to any qualified holder of a current ~~fire and casualty property broker's~~ or agent's license, but only when the broker or agent has:

- (1) Remitted the fifty dollars (\$50.00) annual fee to the Commissioner;
- (2) Submitted a completed license application on a form supplied by the Commissioner, and the application has been approved by the Commissioner;
- (3) Passed a qualifying examination approved by the Commissioner; except that all holders of a license prior to July 11, 1985 shall be deemed to have passed such an examination; and
- (4) Repealed by Session Laws 2004-199, s. 20(c), effective August 17, 2004."

SECTION 10.3. G.S. 75-104(b) reads as rewritten:

"(b) Notwithstanding subsection (a) of this section, a person may use an automatic dialing and recorded message player to make an unsolicited telephone call only under one or more of the following circumstances:

- (1) All of the following are satisfied:
 - a. The person making the call is any of the following:
 - 1. A tax-exempt charitable or civic organization.
 - 2. A political party or political candidate.
 - 3. A governmental official.

4. An opinion polling organization, radio station, television station, cable television company, or broadcast rating service conducting a public opinion poll.
 - b. No part of the call is used to make a telephone solicitation.
 - c. The person making the call clearly identifies the person's name and contact information and the nature of the unsolicited telephone call.
- (2) Prior to the playing of the recorded message, a live operator complies with G.S. 75-102(c), states the nature and length in minutes of the recorded message, and asks for and receives prior approval to play the recorded message from the person receiving the call.
- (3) The unsolicited telephone call is in connection with an existing debt or contract for which payment or performance has not been completed at the time of the unsolicited telephone call.
- (4) The unsolicited telephone call is placed by a person with whom the telephone subscriber has made an appointment, provided that the call is conveying information only about the appointment, or by a utility, telephone company, cable television company, satellite television company, or similar entity for the sole purpose of conveying information or news about network outages, repairs or service interruptions, and confirmation calls related to restoration of service.
- (5) The person plays the recorded message in order to comply with section 16 C.F.R. Part 310.4(b)(4) of the Telemarketing Sales Rule.
- (6) The unsolicited telephone call is placed by, or on behalf of, a health insurer as defined in G.S. 58-51-115(a)(2) from whom the telephone subscriber or other covered family member of the health insurer receives health care coverage or the administration of such coverage, provided that the call is conveying information related to the telephone subscriber or family member's health care, preventive services, medication or other covered benefits."

PART XI. SEVERABILITY.

SECTION 11.1. 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.

PART XII. EFFECTIVE DATES.

SECTION 12.1. Part I of this act becomes effective January 1, 2009, and applies to policies issued or renewed on or after that date. Part III of this act is effective when it becomes law and applies to violations that occur on or after that date. Parts VI and VII of this act become effective October 1, 2008. Part IX of this act becomes effective October 1, 2008, and applies to violations that occur 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 8th day of July, 2008.

Became law upon approval of the Governor at 5:50 p.m. on the 28th day of July, 2008.

Session Law 2008-125

H.B. 821

AN ACT TO SPECIFY THOSE AREAS OUTSIDE OF THE STATE OF NORTH CAROLINA IN WHICH NOTICES RELATED TO A PROPOSED INTERBASIN TRANSFER OF WATER SHALL BE GIVEN AND TO PROVIDE FOR A STUDY BY THE ENVIRONMENTAL REVIEW COMMISSION OF THE DELINEATION OF MAJOR RIVER BASINS AND SUBBASINS WITHIN THIS STATE AS A PART OF THE ONGOING STUDY OF THE ALLOCATION OF WATER RESOURCES BY THE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.22L(c) reads as rewritten:

"(c) Notice of Intent to File a Petition. – An applicant shall prepare a notice of intent to file a petition that includes a nontechnical description of the applicant's request and an identification of the proposed water source. Within 90 days after the applicant files a notice of intent to file a petition, the applicant shall hold at least one public meeting in the source river basin upstream from the proposed point of withdrawal, at least one public meeting in the source river basin downstream from the proposed point of withdrawal, and at least one public meeting in the receiving river basin to provide information to interested parties and the public regarding the nature and extent of the proposed transfer and to receive comment on the scope of the environmental documents. Written notice of the public meetings shall be provided at least 30 days before the public meetings. At the time the applicant gives notice of the public meetings, the applicant shall request comment on the alternatives and issues that should be addressed in the environmental documents required by this section. The applicant shall accept written comment on the scope of the environmental documents for a minimum of 30 days following the last public meeting. Notice of the public meetings and opportunity to comment on the scope of the environmental documents shall be provided as follows:

- (1) By publishing notice in the North Carolina Register.
- (2) By publishing notice in a newspaper of general circulation in:
 - a. Each county in this State located in whole or in part of the area of the source river basin upstream from the proposed point of withdrawal.
 - b. Each city or county located in an adjacent state located in whole or in part of the surface drainage basin area of the source river basin ~~upstream from the proposed point of withdrawal, up to the point of the last impoundment upstream from the point of withdrawal. This sub-subdivision shall not apply if there are no impoundments located in the source river basin upstream from the proposed point of withdrawal.~~ that also falls within, in whole or in part, the area denoted by one of the following eight-digit cataloging units as organized by the United States Geological Survey:

03050101 (Broad River: NC and SC);

03050103 (Broad River: NC and SC);

03050107 (Broad River: SC);

03050108 (Broad River: SC);

03050109 (Broad River: SC);

03050110 (Broad River: SC);
03010101 (New River: VA);
03040101 (New River: VA and NC);
05050002 (New River: VA and WV);
05050003 (New River: WV);
05070201 (New River: KY, VA, and WV);
06010102 (New River: TN and VA);
06010205 (New River: TN and VA);
03050102 (Catawba River: NC);
03050105 (Catawba River: NC and SC);
03050106 (Catawba River: SC);
03050111 (Catawba River: SC);
03010202 (Chowan River: NC and VA);
03010205 (Chowan River: NC and VA);
03010102 (Chowan River: NC and VA);
03010201 (Chowan River: NC and VA);
06010108 (French Broad River NC and TN);
06010105 (French Broad River NC and TN);
06010106 (French Broad River NC and TN);
06010201 (French Broad River TN);
03130001 (Hiwassee River: GA);
03150103 (Hiwassee River: GA);
03150105 (Hiwassee River: AL and GA);
03150106 (Hiwassee River: AL);
06020003 (Hiwassee River: GA, NC, and TN);
06020004 (Hiwassee River: TN);
06030001 (Hiwassee River: AL, GA, and TN);
03060102 (Little Tennessee River: GA, NC, and SC);
06010104 (Little Tennessee River: TN);
06010107 (Little Tennessee River: TN);
06010202 (Little Tennessee River: TN, GA, and NC);
06010203 (Little Tennessee River: NC);
06010204 (Little Tennessee River: NC and TN);
06010207 (Little Tennessee River: TN);
06010208 (Little Tennessee River: TN);
06020001 (Little Tennessee River: AL, GA, TN);
06020002 (Little Tennessee River: GA, NC, TN);
03060101 (Savannah River: NC and SC);
03060103 (Savannah River: GA and SC);
03060104 (Savannah River: GA);
03060105 (Savannah River: GA);
03060107 (Savannah River: SC);
03040203 (Lumber River: NC and SC);
03040204 (Lumber River: NC and SC);
03040201 (Lumber River: NC and SC);
03040206 (Lumber River: NC and SC);
03050112 (Lumber River: SC);
02080108 (Albemarle Sound: VA);
02080208 (Albemarle Sound: VA);

03010203 (Albemarle Sound: NC and VA);
03150101 (Ocoee River: GA and TN);
03150102 (Ocoee River: GA);
03150104 (Ocoee River: GA);
02080201 (Roanoke River: VA and WV);
02080203 (Roanoke River: VA);
02080207 (Roanoke River: VA);
03010104 (Roanoke River: NC and VA);
03010105 (Roanoke River: VA);
03010106 (Roanoke River: NC and VA);
03010204 (Roanoke River: NC and VA);
05050001 (Watauga River: NC and VA);
06010101 (Watauga River: TN and VA);
06010103 (Watauga River: NC and TN);
03010103 (Yadkin River: NC and VA);
03040104 (Yadkin River: NC and SC);
03040207 (Yadkin River: NC and SC);
03040105 (Yadkin River: NC and SC);
03040202 (Yadkin River: NC and SC);
03040205 (Yadkin River: SC);
03050104 (Yadkin River: SC).

- c. Each county in this State ~~or in an adjacent state~~ located in whole or in part of the area of the source river basin downstream from the proposed point of withdrawal.
 - d. Any area in the State in a river basin for which the source river basin has been identified as a future source of water in a local water supply plan prepared pursuant to G.S. 143-355(l).
 - e. Each county in the State located in whole or in part of the receiving river basin.
- (3) By giving notice by first-class mail or electronic mail to each of the following:
- a. The board of commissioners of each county in this State or the governing body of any county or city that is politically independent of a county in any ~~adjacent~~ state that is located entirely or partially within the source river basin of the proposed ~~transfer~~. transfer and that also falls within, in whole or in part, the area denoted by one of the eight-digit cataloging units listed in sub-subdivision b. of subdivision (2) of this subsection.
 - b. The board of commissioners of each county in this State or the governing body of any county or city that is politically independent of a county in any ~~adjacent~~ state that is located entirely or partially within the receiving river basin of the proposed ~~transfer~~. transfer and that also falls within, in whole or in part, the area denoted by one of the eight-digit cataloging units listed in sub-subdivision b. of subdivision (2) of this subsection.

- c. The governing body of any public water supply system that withdraws water upstream or downstream from the withdrawal point of the proposed transfer.
- d. If any portion of the source or receiving river basins is located in ~~an adjacent~~ another state, all state water management or use agencies, environmental protection agencies, and the office of the governor in each adjacent state upstream or downstream from the withdrawal point of the proposed transfer.
- e. All persons who have registered a water withdrawal or transfer from the proposed source river basin under this Part or under similar law in an adjacent state.
- f. All persons who hold a certificate for a transfer of water from the proposed source river basin under this Part or under similar law in an adjacent state.
- g. All persons who hold a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit for a discharge of 100,000 gallons per day or more upstream or downstream from the proposed point of withdrawal.
- h. To any other person who submits to the applicant a written request to receive all notices relating to the petition."

SECTION 2. As a part of the study by the Environmental Review Commission of the allocation of water resources in this State pursuant to subsection (a) of Section 1 of S.L. 2007-518, the Environmental Review Commission shall study the delineation of major river basins and subbasins within the State. The Commission shall determine whether the definition of "river basin" set out in G.S. 143-215.22G and the accompanying map should be revised. The Commission shall report its findings and recommendations as provided in subsection (a) of Section 1 of S.L. 2007-518, as amended.

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

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 5:53 p.m. on the 28th day of July, 2008.

Session Law 2008-126

S.B. 212

AN ACT TO LIMIT ACCESS TO IDENTIFYING INFORMATION OF MINOR PARTICIPANTS IN PARKS AND RECREATION PROGRAMS OF LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 132 of the General Statutes is amended by adding a new section to read:

"§ 132-1.12. Limited access to identifying information of minors participating in local government parks and recreation programs.

(a) A public record, as defined by G.S. 132-1, does not include, as to any minor participating in a park or recreation program sponsored by a local government or combination of local governments, any of the following information as to that minor participant: (i) name, (ii) address, (iii) age, (iv) date of birth, (v) telephone number, (vi)

the name or address of that minor participant's parent or legal guardian, or (vii) any other identifying information on an application to participate in such program or other records related to that program.

(b) The county, municipality, and zip code of residence of each participating minor covered by subsection (a) of this section is a public record, with the information listed in subsection (a) of this section redacted.

(c) Nothing in this section makes the information listed in subsection (a) of this section confidential information."

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 5:55 p.m. on the 28th day of July, 2008.

Session Law 2008-127

H.B. 964

AN ACT TO EXPAND THE DEFINITION OF HOME CARE SERVICES TO INCLUDE IN-HOME COMPANION, SITTER, AND RESPITE CARE SERVICES PROVIDED TO AN INDIVIDUAL AND TO INCREASE THE ANNUAL LICENSE FEE FOR HOME CARE AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-136 reads as rewritten:

"§ 131E-136. **Definitions.**

As used in this Part, unless otherwise specified:

- (1) "Commission" means the North Carolina Medical Care Commission.
- (1a) "Geographic service area" means the geographic area in which a licensed agency provides home care services.
- (2) "Home care agency" means a private or public organization that provides home care services.
- (2a) "Home care agency director" means the person having administrative responsibility for the operation of the licensed agency site.
- (2b) "Home care client" means an individual who receives home care services.
- (3) "Home care services" means any of the following services and directly related medical supplies and appliances, which are provided to an individual in a place of temporary or permanent residence used as an individual's home:
 - a. Nursing care provided by or under the supervision of a registered ~~nurse;~~nurse.
 - b. Physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place of temporary or permanent residence used as the individual's ~~home;~~home.
 - c. Medical social ~~services;~~services.
 - d. In-home aide services that involve hands-on care to an ~~individual;~~individual.
 - e. Infusion nursing ~~services;~~ and services.

- f. Assistance with pulmonary care, pulmonary rehabilitation or ventilation.
- g. In-home companion, sitter, and respite care services provided to an individual.
- h. Homemaker services provided in combination with in-home companion, sitter, respite, or other home care services.

The term does not include: health promotion, preventative health and community health services provided by public health departments; maternal and child health services provided by public health departments, by employees of the Department of Health and Human Services under G.S. 130A-124, or by developmental evaluation centers under contract with the Department of Health and Human Services to provide services under G.S. 130A-124; hospitals licensed under Article 5 of Chapter 131E of the General Statutes when providing follow-up care initiated to patients within six months after their discharge from the hospital; facilities and programs operated under the authority of G.S. 122C and providing services within the scope of G.S. 122C; schools, when providing services pursuant to Article 9 of Chapter 115C; the practice of midwifery by a person licensed under Article 10A of Chapter 90 of the General Statutes; hospices licensed under Article 10 of Chapter 131E of the General Statutes when providing care to a hospice patient; an individual who engages solely in providing his own services to other individuals; incidental health care provided by an employee of a physician licensed to practice medicine in North Carolina in the normal course of the physician's practice; or nursing registries if the registry discloses to a client or the client's responsible party, before providing any services, that (i) it is not a licensed home care agency, and (ii) it does not make any representations or guarantees concerning the training, supervision, or competence of the personnel provided. The term sitter does not include child care facilities licensed in accordance with Chapter 110 of the General Statutes. The term respite care does not include facilities or services licensed in accordance with Chapter 122C of the General Statutes. The terms in-home companion, sitter, homemaker, and respite care services do not include (i) services certified or otherwise overseen by the Department as not providing personal care or (ii) services administered on a voluntary basis for which there is not reimbursement from the recipient or anyone acting on the recipient's behalf.

- (4) "Home health agency" means a home care agency which is certified to receive Medicare and Medicaid reimbursement for providing nursing care, therapy, medical social services, and home health aide services on a part-time, intermittent basis as set out in G.S. 131E-176(12), and is thereby also subject to Article 9 of Chapter 131E."

SECTION 2. G.S. 131E-138 reads as rewritten:

"§ 131E-138. Licensure requirements.

- (a) No person or governmental unit shall operate a home care agency without a license obtained from the Department. Nothing in this Part shall be construed to extend

or modify the licensing of individual health professionals by the licensing boards for their professions or to create any new professional license category.

(b) Repealed by Session Laws 1991, c. 59, s. 1.

(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of ~~three hundred fifty dollars (\$350.00)~~ four hundred dollars (\$400.00).

(d) The Department shall renew the license in accordance with the rules of the Commission.

(e) Each license shall be issued only for the premises and persons named in the license and shall not be transferable or assignable except with the written approval of the Department.

(f) The license shall be posted in a conspicuous place on the licensed premises.

(g) The Commission shall adopt rules to ensure that a home care agency shall be deemed to meet the licensure requirements and issued a license without further review or inspection if: (i) the agency is already certified or accredited by the Joint Commission on Accreditation of Health Care Organizations, National League for Nursing, National Home Caring Council, North Carolina Accreditation Commission for In-Home Aide Services, or other entities recognized by the Commission and (ii) the agency is certified or accredited for all of the home care services that it provides; or (iii) in the case of continuing care retirement communities licensed by the North Carolina Department of Insurance under Article 64 of Chapter 58 which also have nursing beds licensed by the Department of Health and Human Services under Article 6 of Chapter 131E, the Department certifies, as part of its licensure review or survey of the nursing beds, that the facility also meets all of the rules and regulations adopted by the Commission pursuant to this Part. The Department may, at its discretion, determine the frequency and extent of the review and inspection of home health agencies already certified as meeting federal requirements, but not more frequently than on an annual basis for routine reviews."

SECTION 3. The North Carolina Medical Care Commission shall adopt rules to implement Section 1 of this act.

SECTION 4. Section 1 of this act becomes effective January 1, 2010. Section 2 of this act becomes effective January 1, 2009. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 5:57 p.m. on the 28th day of July, 2008.

Session Law 2008-128

S.B. 944

AN ACT TO MAKE LEAVING THE SCENE OF AN ACCIDENT WHERE A PERSON SUFFERS SERIOUS BODILY INJURY A CLASS F FELONY AND TO PROVIDE THAT THEFT OF FIXTURES ATTACHED TO REAL PROPERTY IS LARCENY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-166 reads as rewritten:

"§ 20-166. **Duty to stop in event of ~~accident or collision~~ a crash; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability.**

(a) The driver of any vehicle who knows or reasonably should know:

- (1) That the vehicle which he or she is operating is involved in ~~an accident or collision~~ a crash; and
- (2) That the ~~accident or collision~~ crash has resulted in serious bodily injury, as defined in G.S. 14-32.4, or death to any person;

shall immediately stop his or her vehicle at the scene of the ~~accident or collision~~ crash. The driver shall remain with the vehicle at the scene of the ~~accident~~ crash until a law-enforcement officer completes the investigation of the ~~accident or collision~~ crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the ~~accident~~ crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment as set forth in subsection (b) of this section, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection shall be punished as a Class ~~H-F~~ felony.

(a1) The driver of any vehicle who knows or reasonably should know:

- (1) That the vehicle which he or she is operating is involved in a crash; and
- (2) That the crash has resulted in injury;

shall immediately stop his or her vehicle at the scene of the crash. The driver shall remain with the vehicle at the scene of the crash until a law enforcement officer completes the investigation of the crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment as set forth in subsection (b) of this section, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the crash scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection shall be punished as a Class H felony.

(b) In addition to complying with the ~~requirement of subsection (a)~~ requirements of subsections (a) and (a1) of this section, the driver as set forth in ~~subsection (a)~~ subsections (a) and (a1) shall give his or her name, address, driver's license number and the license plate number of the vehicle to the person struck or the driver or occupants of any vehicle collided with, provided that the person or persons are physically and mentally capable of receiving such information, and shall render to any person injured in such ~~accident or collision~~ crash reasonable assistance, including the

calling for medical assistance if it is apparent that such assistance is necessary or is requested by the injured person. A violation of this subsection is a Class 1 misdemeanor.

(c) The driver of any vehicle, when ~~he or she~~ the driver knows or reasonably should know that the vehicle which ~~he or she~~ the driver is operating is involved in an ~~accident or collision, which accident or collision, results:~~ a crash which results:

- (1) Only in damage to property; or
- (2) In injury or death to any person, but only if the operator of the vehicle did not know and did not have reason to know of the death or injury;

shall immediately stop the vehicle at the scene of the ~~accident or collision.~~ crash. If the ~~accident~~ crash is a reportable ~~accident,~~ crash, the driver shall remain with the vehicle at the scene of the ~~accident~~ crash until a law enforcement officer completes the investigation of the ~~accident~~ crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the ~~accident~~ crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene, for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection is a Class 1 misdemeanor.

(c1) In addition to complying with the requirement of subsection (c) of this section, the driver as set forth in subsection (c) shall give his or her name, address, driver's license number and the license plate number of his vehicle to the driver or occupants of any other vehicle involved in the ~~accident or collision~~ crash or to any person whose property is damaged in the ~~accident or collision.~~ crash. If the damaged property is a parked and unattended vehicle and the name and location of the owner is not known to or readily ascertainable by the driver of the responsible vehicle, the driver shall furnish the information required by this subsection to the nearest available peace officer, or, in the alternative, and provided the driver thereafter within 48 hours fully complies with G.S. 20-166.1(c), shall immediately place a paper-writing containing the information in a conspicuous place upon or in the damaged vehicle. If the damaged property is a guardrail, utility pole, or other fixed object owned by the Department of Transportation, a public utility, or other public service corporation to which report cannot readily be made at the scene, it shall be sufficient if the responsible driver shall furnish the information required to the nearest peace officer or make written report thereof containing the information by U.S. certified mail, return receipt requested, to the North Carolina Division of Motor Vehicles within five days following the collision. A violation of this subsection is a Class 1 misdemeanor.

(c2) Notwithstanding subsections ~~(a)~~ (a), (a1), and (c) of this section, if an ~~accident or collision~~ a crash occurs on a main lane, ramp, shoulder, median, or adjacent area of a highway, each vehicle shall be moved as soon as possible out of the travel lane and onto the shoulder or to a designated accident investigation site to complete the requirements of this section and minimize interference with traffic if all of the following apply:

- (1) The ~~accident or collision~~ crash has not resulted in injury or death to any person or the drivers did not know or have reason to know of any injury or death.

- (2) Each vehicle can be normally and safely driven. For purposes of this subsection, a vehicle can be normally and safely driven if it does not require towing and can be operated under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway.

(d) Any person who renders first aid or emergency assistance at the scene of a motor vehicle ~~accident~~ crash on any street or highway to any person injured as a result of the accident, shall not be liable in civil damages for any acts or omissions relating to the services rendered, unless the acts or omissions amount to wanton conduct or intentional wrongdoing.

(e) The Division of Motor Vehicles shall revoke the drivers license of a person convicted of violating subsection (a) or (a1) of this section for a period of one year, unless the court makes a finding that a longer period of revocation is appropriate under the circumstances of the case. If the court makes this finding, the Division of Motor Vehicles shall revoke that person's drivers license for two years. Upon a first conviction only for a violation of subsection ~~(a)~~ (a1) of this section, a trial judge may allow limited driving privileges in the manner set forth in G.S. 20-179.3(b)(2) during any period of time during which the drivers license is revoked."

SECTION 2. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-83A. Fixtures subject to larceny.

All common law distinctions providing that personal property that has become affixed to real property is not subject to a charge of larceny are abolished. Any person who shall remove or take and carry away, or shall aid another in removing, taking or carrying away, any property that is affixed to real property, with the intent to steal the property, shall be guilty of larceny and shall be punished as provided by statute."

SECTION 3. This act becomes effective December 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 5:59 p.m. on the 28th day of July, 2008.

Session Law 2008-129

H.B. 1003

AN ACT TO PROVIDE THAT THE COURT MAY CONSIDER A DEFENDANT'S PRIOR WILLFUL FAILURES TO COMPLY WITH CONDITIONS OF RELEASE WHEN PLACED ON SUPERVISED PROBATION, PAROLE, OR POST-RELEASE SUPERVISION AS AN AGGRAVATING FACTOR AND TO PROVIDE THAT A COURT MAY EXTEND OR MODIFY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

"(12a) The defendant has, during the 10-year period prior to the commission of the offense for which the defendant is being sentenced, been found by a court of this State to be in willful violation of the conditions of probation imposed pursuant to a suspended sentence or been found by the Post-Release Supervision and Parole Commission to be in willful

violation of a condition of parole or post-release supervision imposed pursuant to release from incarceration."

SECTION 2. G.S. 15A-1340.16(b) reads as rewritten:

"(b) When Aggravated or Mitigated Sentence Allowed. – If the jury, or with respect to an aggravating factor under ~~G.S. 15A-1340.16(d)(18a)~~, G.S. 15A-1340.16(d)(12a) or (18a), the court, finds that aggravating factors exist or the court finds that mitigating factors exist, the court may depart from the presumptive range of sentences specified in G.S. 15A-1340.17(c)(2). If aggravating factors are present and the court determines they are sufficient to outweigh any mitigating factors that are present, it may impose a sentence that is permitted by the aggravated range described in G.S. 15A-1340.17(c)(4). If the court finds that mitigating factors are present and are sufficient to outweigh any aggravating factors that are present, it may impose a sentence that is permitted by the mitigated range described in G.S. 15A-1340.17(c)(3)."

SECTION 3. G.S. 15A-1342(a) reads as rewritten:

"(a) Period. – The court may place a convicted offender on probation for the appropriate period as specified in G.S. 15A-1343.2(d), not to exceed a maximum of five years. The court may place a defendant as to whom prosecution has been deferred on probation for a maximum of two years. The probation remains conditional and subject to revocation during the period of probation imposed, unless terminated as provided in subsection (b) or G.S. 15A-1341(c).

Extension. – ~~The~~ In addition to G.S. 15A-1344, the court with the consent of the defendant may extend the period of probation beyond the original period (i) for the purpose of allowing the defendant to complete a program of restitution, or (ii) to allow the defendant to continue medical or psychiatric treatment ordered as a condition of the probation. The period of extension shall not exceed three years beyond the original period of probation. The special extension authorized herein may be ordered only in the last six months of the original period of probation. Any probationary judgment form provided to a defendant on supervised probation shall state that probation may be extended pursuant to this subsection."

SECTION 4. G.S. 15A-1344 reads as rewritten:

"§ 15A-1344. Response to violations; alteration and revocation.

(a) Authority to Alter or Revoke. – Except as provided in subsection (b), probation may be reduced, terminated, continued, extended, modified, or revoked by any judge entitled to sit in the court which imposed probation and who is resident or presiding in the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, where the sentence of probation was imposed, where the probationer violates probation, or where the probationer resides. Upon a finding that an offender sentenced to community punishment under Article 81B has violated one or more conditions of probation, the court's authority to modify the probation judgment includes the authority to require the offender to comply with conditions of probation that would otherwise make the sentence an intermediate punishment. The district attorney of the prosecutorial district as defined in G.S. 7A-60 in which probation was imposed must be given reasonable notice of any hearing to affect probation substantially.

(b) Limits on Jurisdiction to Alter or Revoke Unsupervised Probation. – If the sentencing judge has entered an order to limit jurisdiction to consider a sentence of unsupervised probation under G.S. 15A-1342(h), a sentence of unsupervised probation may be reduced, terminated, continued, extended, modified, or revoked only by the

sentencing judge or, if the sentencing judge is no longer on the bench, by a presiding judge in the court where the defendant was sentenced.

(c) Procedure on Altering or Revoking Probation; Returning Probationer to District Where Sentenced. – When a judge reduces, terminates, extends, modifies, or revokes probation outside the county where the judgment was entered, the clerk must send a copy of the order and any other records to the court where probation was originally imposed. A court on its own motion may return the probationer to the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, where probation was imposed or where the probationer resides for reduction, termination, continuation, extension, modification, or revocation of probation. In cases where the probation is revoked in a county other than the county of original conviction the clerk in that county must issue a commitment order and must file the order revoking probation and the commitment order, which will constitute sufficient permanent record of the proceeding in that court, and must send a certified copy of the order revoking probation, the commitment order, and all other records pertaining thereto to the county of original conviction to be filed with the original records. The clerk in the county other than the county of original conviction must issue the formal commitment to the North Carolina Department of Correction.

(d) Extension and Modification; Response to Violations. – At any time prior to the expiration or termination of the probation ~~period, period or in accordance with subsection (f) of this section,~~ the court may after notice and hearing and for good cause shown extend the period of probation up to the maximum allowed under G.S. 15A-1342(a) and may modify the conditions of probation. The probation period shall be tolled if the probationer shall have pending against him criminal charges in any court of competent jurisdiction, which, upon conviction, could result in revocation proceedings against him for violation of the terms of this probation. The hearing may be held in the absence of the defendant, if he fails to appear for the hearing after a reasonable effort to notify him. If a convicted defendant violates a condition of probation at any time prior to the expiration or termination of the period of probation, the court, in accordance with the provisions of G.S. 15A-1345, may continue him on probation, with or without modifying the conditions, may place the defendant on special probation as provided in subsection (e), or, if continuation, modification, or special probation is not appropriate, may revoke the probation and activate the suspended sentence imposed at the time of initial sentencing, if any, or may order that charges as to which prosecution has been deferred be brought to trial; provided that probation may not be revoked solely for conviction of a Class 3 misdemeanor. The court, before activating a sentence to imprisonment established when the defendant was placed on probation, may reduce the sentence, but the reduction shall be consistent with subsection (d1) of this section. A sentence activated upon revocation of probation commences on the day probation is revoked and runs concurrently with any other period of probation, parole, or imprisonment to which the defendant is subject during that period unless the revoking judge specifies that it is to run consecutively with the other period.

(d1) Reduction of Initial Sentence. – If the court elects to reduce the sentence of imprisonment for a felony, it shall not deviate from the range of minimum durations established in Article 81B of this Chapter for the class of offense and prior record level used in determining the initial sentence. If the presumptive range is used for the initial suspended sentence, the reduced sentence shall be within the presumptive range. If the mitigated range is used for the initial suspended sentence, the reduced sentence shall be

within the mitigated range. If the aggravated range is used for the initial suspended sentence, the reduced sentence shall be within the aggravated range. If the court elects to reduce the sentence for a misdemeanor, it shall not deviate from the range of durations established in Article 81B for the class of offense and prior conviction level used in determining the initial sentence.

(e) **Special Probation in Response to Violation.** – When a defendant has violated a condition of probation, the court may modify his probation to place him on special probation as provided in this subsection. In placing him on special probation, the court may continue or modify the conditions of his probation and in addition require that he submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever time or intervals within the period of probation the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in either the custody of the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment imposed for the offense. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. No confinement other than an activated suspended sentence may be required beyond the period of probation or beyond two years of the time the special probation is imposed, whichever comes first.

(e1) **Criminal Contempt in Response to Violation.** – If a defendant willfully violates a condition of probation, the court may hold the defendant in criminal contempt as provided in Article 1 of Chapter 5A of the General Statutes. A finding of criminal contempt by the court shall not revoke the probation. If the offender serves a sentence for contempt in a local confinement facility, the Department of Correction shall pay for the confinement at the standard rate set by the General Assembly pursuant to G.S. 148-32.1(a) regardless of whether the offender would be eligible under the terms of that subsection.

(e2) **Mandatory Satellite-Based Monitoring Required for Extension of Probation in Response to Violation by Certain Sex Offenders.** – If a defendant who is in the category described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(2) violates probation and if the court extends the probation as a result of the violation, then the court shall order satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a condition of the extended probation.

(f) **Extension, Modification, or Revocation after Period of Probation.** – The court may extend, modify, or revoke probation after the expiration of the period of probation ~~if~~ if all of the following apply:

- (1) Before the expiration of the period of probation the State has filed a written ~~motion~~ violation report with the clerk indicating its intent to

- conduct a ~~revocation hearing; and~~ hearing on one or more violations of one or more conditions of probation.
- (2) ~~The court finds that the State has made reasonable effort to notify the probationer and to conduct the hearing earlier.~~ probationer did violate one or more conditions of probation prior to the expiration period of probation.
- (3) The court finds for good cause shown and stated that the probation should be extended, modified, or revoked.
- (4) If the court opts to extend the period of probation, the court may extend the period of probation up to the maximum allowed under G.S. 15A-1342(a)."

SECTION 5. Sections 1 and 2 of this act become effective December 1, 2008, and apply to offenses committed on or after that date. Sections 3 and 4 of this act become effective December 1, 2008, and apply to probation violation hearings on or after that date. The remainder of this act becomes effective December 1, 2008.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 6:01 p.m. on the 28th day of July, 2008.

Session Law 2008-130

S.B. 2117

AN ACT TO MAKE CERTAIN CLARIFYING CHANGES TO THE NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONAL PRACTICE ACT, TO CLARIFY THE REQUIREMENTS OF MEMBERSHIP ON THE NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD UNDER CERTAIN CIRCUMSTANCES, AND TO AMEND THE LAWS REQUIRING A PASSING SCORE ON AN ORAL EXAMINATION THEREBY AFFECTING FEES CHARGED BY THE BOARD UNDER THE LAWS REGULATING SUBSTANCE ABUSE PROFESSIONALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-113.31A reads as rewritten:

"§ 90-113.31A. **Definitions.**

The following definitions shall apply in this Article:

- ...
- (9) ~~Clinical addictions specialist intern. — A person who successfully completes 300 hours of Board-approved supervised practical training and passes a written examination in pursuit of licensure as a clinical addictions specialist.~~
- ...
- (22a) Provisional licensed clinical addictions specialist. — A registrant who successfully completes 300 hours of Board-approved supervised practical training in pursuit of licensure as a clinical addictions specialist.
- ...
- (25) Substance abuse counselor intern. — A ~~person—registrant~~ who successfully completes 300 hours of Board-approved supervised

practical training and ~~passes a written examination~~ in pursuit of credentialing as a substance abuse counselor.

- (26) Substance abuse professional. – A registrant, certified substance abuse counselor, substance abuse counselor intern, certified substance abuse prevention consultant, certified clinical supervisor, ~~clinical addictions specialist intern~~, provisional licensed clinical addictions specialist, licensed clinical addictions specialist, certified substance abuse residential facility director, clinical supervisor intern, or certified criminal justice addictions professional."

SECTION 2. G.S. 90-113.32(b) is repealed.

SECTION 3. G.S. 90-113.32(c)(3) reads as rewritten:

"(c) After the initial Board members' terms expire, the Board shall consist of the following members, all of whom shall reside in North Carolina, appointed or elected as follows:

...

- (3) Two members from the ~~Division of Mental Health, Developmental Disabilities, and Substance Abuse Services~~, Department of Health and Human Services, appointed by the Chief of the ~~North Carolina Substance Abuse Single State Agency~~, Community Policy Management of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, at least one of whom administers substance abuse services."

SECTION 4. G.S. 90-113.40 reads as rewritten:

"§ 90-113.40. **Requirements for certification and licensure.**

(a) The Board shall issue a certificate certifying an applicant as a "Certified Substance Abuse Counselor" or as a "Certified Substance Abuse Prevention Consultant" if:

- (1) The applicant is of good moral character.
- (2) The applicant is not and has not engaged in any practice or conduct that would be grounds for disciplinary action under G.S. 90-113.44.
- (3) The applicant is qualified for certification pursuant to the requirements of this Article and any rules adopted pursuant to it.
- (4) The applicant has, at a minimum, a high school diploma or a high school equivalency certificate.
- (5) The applicant has signed a form attesting to the intention to adhere fully to the ethical standards adopted by the Board.
- (5a) The applicant submits to a complete criminal history record check pursuant to G.S. 90-113.46A.
- (6) The applicant has completed 270 hours of Board-approved education. The Board may prescribe that a certain number of hours be in a course of study for substance abuse counseling and that a certain number of hours be in a course of study for substance abuse prevention consulting. Independent study hours shall not compose more than fifty percent (50%) of the total number of hours required for initial credentialing.
- (7) The applicant has documented completion of a minimum of 300 hours of Supervised Practical Training, has provided a Board-approved supervision contract between the applicant and an applicant supervisor,

and has been deemed recommended by the applicant supervisor to advance in the credentialing process.

- (8) The applicant for substance abuse counselor has completed a total of 6,000 hours of supervised experience in the field, whether paid or volunteer. The applicant for substance abuse prevention consultant has completed a total of 6,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services field from a regionally accredited college or university.
- (9) The applicant has obtained a passing score on a written examination. ~~An applicant for certification as a substance abuse counselor must also obtain a passing score on an oral examination promulgated and administered by the Board.~~

(b) The Board shall issue a certificate certifying an individual as a "Certified Clinical Supervisor" ~~if, in addition to meeting the requirements of subdivisions (a)(1) through (5a) of this section,~~ if the applicant:

- (1) Submits proof of designation by the Board as a clinical supervisor intern.
- (2) ~~Prior to June 30, 1998, the applicant presents proof that the applicant has 12,000 hours experience in alcohol and drug abuse counseling and a bachelors degree or 8,000 hours experience in alcohol and drug abuse counseling and a minimum of a master's degree. After June 30, 1998, the applicant shall present~~Submits proof that the applicant has a minimum of a master's degree in a human services field with a clinical application from a regionally accredited college or university.
- (3) ~~Has 6,000 hours experience as a substance abuse clinical supervisor if the applicant has a bachelors degree or 4,000 hours experience if the applicant has a master's degree in a human services field with a clinical application from a regionally accredited college or university as a~~ substance abuse clinical supervisor as documented by his or her certified clinical supervisor.
- (4) Has 30 hours of substance abuse clinical supervision specific education or training. These hours shall be reflective of the Twelve Core Functions in the applicant's clinical application and practice and may also be counted toward the applicant's renewal as a substance abuse counselor or a clinical addictions specialist.
- (5) Submits a letter of reference from a ~~professional~~ certified clinical supervisor who can attest to the applicant's supervisory competence and two letters of reference from either counselors who have been supervised by the applicant or professionals who can attest to the applicant's competence.
- (6) Obtains a passing score on a written examination administered by the Board.

~~A person who practices as a certified clinical supervisor in addition to practicing as a certified substance abuse counselor shall be exempt from the practice supervision contract requirement.~~

(b1) The Board shall designate an applicant as a "Clinical Supervisor Intern" if, in addition to meeting the requirements of subdivisions (a)(1) through (5a) of this section, the applicant meets the following qualifications:

- (1) Submits an application, resume, and official transcript showing that the applicant has obtained a master's degree in a human services field with a clinical application from a regionally accredited college or university.
- (2) Submits verification statements.
- (3) Submits proof of credentialing as a ~~certified substance abuse counselor, a licensed clinical addictions specialist, or certification or licensure through an organization granted deemed status by the Board.~~ specialist.
- (4) Submits documentation establishing that the applicant has completed at least fifty percent of the required clinical supervision specific training hours as defined by the Board.

(c) The Board shall issue a license credentialing an applicant as a "Licensed Clinical Addictions Specialist" if, in addition to meeting the requirements of subdivisions (a)(1) through (5a) of this section, the applicant meets one of the following criteria:

- (1) Criteria A. – The applicant:
 - a. Has a minimum of a master's degree with a clinical application in a human services field from a regionally accredited college or university.
 - b. Has two years postgraduate supervised substance abuse counseling experience.
 - c. Submits three letters of reference from licensed clinical addictions specialists or certified substance abuse counselors who have obtained master's degrees.
 - d. Has achieved a ~~combined passing score set by the Board~~ on a master's level written ~~and oral~~ examination administered by the Board.
 - e. Has attained 180 hours of substance abuse specific training from either a regionally accredited college or university, which may include unlimited independent study, or from training events of which no more than fifty percent (50%) shall be in independent study. All hours shall be credited according to the standards set forth in G.S. 90-113.41A.
 - f. The applicant has documented completion of a minimum of 300 hours of supervised practical training and has provided a Board-approved supervision contract between the applicant and an applicant supervisor.
- (2) Criteria B. – The applicant:
 - a. Has a minimum of a master's degree with a clinical application in a human services field from a regionally accredited college or university.
 - b. Has been certified as a substance abuse counselor.
 - c. ~~Has one year of postgraduate supervised substance abuse counseling experience.~~
 - d. Has achieved a passing score on a master's level written examination administered by the Board.

- e. Submits three letters of reference from either licensed clinical addictions specialists or certified substance abuse counselors who have obtained master's degrees.
- (3) Criteria C. – The applicant:
- a. Has a minimum of a master's degree in a human services field with both a clinical application and a substance abuse specialty from a regionally accredited college or university that includes 180 hours of substance abuse specific education and training pursuant to G.S. 90-113.41A.
 - b. Has one year of postgraduate supervised substance abuse counseling experience.
 - c. Has achieved a passing score on ~~an oral~~ a master's level written examination administered by the Board.
 - d. Submits three letters of reference from licensed clinical addictions specialists or certified substance abuse counselors who have obtained master's degrees.
- (4) Criteria D. – The applicant has a substance abuse certification from a professional discipline that has been granted deemed status by the Board.
- (d) The Board shall issue a certificate certifying an applicant as a "Substance Abuse Residential Facility Director" if the applicant:
- (1) Has been credentialed as a substance abuse counselor or a clinical addictions specialist.
 - (2) Has 50 hours of Board approved academic or didactic management specific training or a combination thereof. Independent study may compose up to fifty percent (50%) of the total number of hours required for initial credentialing.
 - (3) Submits letters of reference from the applicant's current supervisor and a colleague or coworker.
- (d1) The Board shall issue a certificate certifying an applicant as a "Certified Criminal Justice Addictions Professional", with the acronym "CCJP", if in addition to meeting the requirements of subdivisions (a)(1) through (5a) of this section, the applicant:
- (1) Has attained 270 hours of Board-approved education or training, unless the applicant has attained a minimum of a masters degree with a clinical application and a substance abuse specialty from a regionally accredited college or university whereby the applicant must only obtain 180 hours. The hours of education shall be specifically related to the knowledge and skills necessary to perform the tasks within the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated, "IC&RC/AODA, Inc.," criminal justice addictions professional performance domains as they relate to both adults and juveniles. Independent study may compose up to fifty percent (50%) of the total number of hours obtained for initial certification or renewal.
 - (2) Has documented 300 hours of Board-approved supervised practical training. This supervision shall mean the administrative, clinical, and evaluative process of monitoring, assessing, and enhancing professional performance. A minimum of 10 hours of supervision in

each criminal justice domain established by the IC&RC/AODA, Inc., is required.

- (3) Has provided documentation of supervised work experience providing direct service to clients or offenders involved in one of the three branches of the criminal justice system, which include law enforcement, the judiciary, and corrections. The applicant must meet one of the following criteria:
- a. Criteria A. – In addition to having a high school degree or GED, the applicant has a minimum of 6,000 hours of documented work experience in direct services in criminal justice or addictions services or any combination of these services that have been obtained during the past 10 years.
 - b. Criteria B. – In addition to having an associate degree, the applicant has a minimum of 5,000 hours of documented work experience in direct services in criminal justice or addictions services or any combination of these services obtained during the past 10 years.
 - c. Criteria C. – In addition to having at least a bachelors degree, the applicant has a minimum of 4,000 hours of documented work experience in direct services in criminal justice or addictions services, or any combination of these services, and this experience has been obtained during the past 10 years.
 - d. Criteria D. – In addition to having at least a masters degree in a human services field, the applicant has a minimum of 2,000 hours of documented work experience in direct services in criminal justice or addictions services or any combination of these services that has been obtained during the past 10 years.
 - e. Criteria E. – In addition to having at least a masters degree in a human services field with a specialty from a regionally accredited college or university that includes 180 hours of substance abuse specific education or training, the applicant has a minimum of 2,000 hours of postgraduate supervised substance abuse counseling experience.
 - f. Criteria F. – In addition to having obtained the credential of a certified clinical addictions specialist or other advanced credential in a human services field from an organization that has obtained deemed status with the Board, the applicant has a minimum of 1,000 hours of documented work experience in direct services in criminal justice or addictions services that has been obtained during the past 10 years.
- (4) Has passed the IC&RC/AODA, Inc., certified criminal justice addictions professional written examination.

(e) The Board shall publish from time to time information in order to provide specifics for potential applicants of an acceptable educational curriculum and the terms of acceptable supervised fieldwork experience.

(f) Effective January 1, 2003, only a person who is certified as a certified clinical supervisor or a clinical supervisor intern shall be qualified to supervise applicants for certified clinical supervisor and certified substance abuse counselor and applicants for

licensed clinical addictions specialist who meet the qualifications of their credential other than through deemed status as provided in G.S. 90-113.40(c)(4)."

SECTION 5. G.S. 90-113.42(d) reads as rewritten:

"(d) Only individuals registered, certified, or licensed under this Article may use the title "Certified Substance Abuse Counselor", "Certified Substance Abuse Prevention Consultant", "Certified Clinical Supervisor", "Licensed Clinical Addictions Specialist", "Certified Substance Abuse Residential Facility Director", "Certified Criminal Justice Addictions Professional", "Substance Abuse Counselor Intern", "Provisional Licensed Clinical Addictions Specialist", "Specialist", "Clinical Supervisor Intern", or "Registrant"."

SECTION 6. G.S. 90-113.43 reads as rewritten:

"§ 90-113.43. Illegal practice; misdemeanor penalty.

(a) Except as otherwise authorized in this Article, no person shall:

- (1) Offer substance abuse professional services, practice, attempt to practice, or supervise while holding himself or herself out to be a certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, ~~certified or licensed clinical addictions specialist, clinical addictions specialist intern, provisional licensed clinical addictions specialist, certified substance abuse residential facility director, certified criminal justice addictions professional, clinical supervisor intern, substance abuse prevention consultant, substance abuse counselor intern,~~ or registrant without first having obtained a ~~certificate notification~~ of registration, certification, or licensure from the Board.
- (2) Use in connection with any name any letters, words, numerical codes, or insignia indicating or implying that this person is a registrant, certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, licensed clinical addictions specialist, certified substance abuse residential facility director, substance abuse counselor intern, certified criminal justice addictions professional, or ~~clinical addictions specialist intern, provisional licensed clinical addictions specialist~~ unless this person is registered, certified, or licensed pursuant to this Article.
- (3) Practice or attempt to practice as a certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, licensed clinical addictions specialist, certified criminal justice addictions professional, substance abuse counselor intern, provisional licensed clinical addictions specialist, clinical supervisor intern, ~~or certified substance abuse residential facility director or~~ registrant with a revoked, lapsed, or suspended certification or license.
- (4) Aid, abet, or assist any person to practice as a certified substance abuse counselor, certified substance abuse prevention consultant, certified criminal justice addictions professional, certified clinical supervisor, licensed clinical addictions specialist, certified substance abuse residential facility director, registrant, substance abuse counselor intern, provisional licensed clinical addictions specialist, or clinical supervisor intern in violation of this Article.
- (5) Knowingly serve in a position required by State law or rule or federal law or regulation to be filled by a registrant, certified substance abuse

counselor, certified substance abuse prevention consultant, certified criminal justice addictions professional, certified clinical supervisor, licensed clinical addictions specialist, certified substance abuse residential facility director, substance abuse counselor intern, provisional licensed clinical addictions specialist-intern, specialist, or clinical supervisor intern unless that person is registered, certified, or licensed under this Article.

(6) Repealed by S.L. 1997-492, s. 13.

(7) ~~Practice, supervise, or attempt to practice or supervise or knowingly serve in a position required by State law or rule or federal law or regulation to be filled by a designated substance abuse intern without being designated as such by the Board.~~

(b) A person who engages in any of the illegal practices enumerated by this section is guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a distinct and separate offense."

SECTION 7. G.S. 122C-142.1(b1)(2) 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:

...

(2) ~~A Certified-Licensed Clinical Addiction Specialist (CCAS), (LCAS), as defined by the Commission."~~

SECTION 8. G.S. 122C-142.1(d1) reads as rewritten:

"(d1) Persons Authorized to Provide Instruction. – Beginning January 1, 2009, individuals who provide ADET school instruction as a Department-authorized ADETS instructor must have at least one of the following qualifications:

(1) A Certified Substance Abuse Counselor (CSAC), as defined by the Commission.

(2) A ~~Certified-Licensed~~ Clinical ~~Addiction~~ Addictions Specialist (~~CCAS~~), (LCAS), as defined by the Commission.

(3) A Certified Substance Abuse Prevention Consultant (CSAPC), as defined by the Commission."

SECTION 9. Notwithstanding G.S. 90-113.32(e), members currently serving on the North Carolina Substance Abuse Professional Practice Board who began serving a second consecutive four-year term as of September 1, 2005, may continue to serve on the Board for an additional four-year term.

SECTION 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2008.

Became law upon approval of the Governor at 6:05 p.m. on the 28th day of July, 2008.

Session Law 2008-131

S.B. 1770

AN ACT TO REQUIRE ALL DEATHS OCCURRING IN CERTAIN STATE FACILITIES BE REPORTED, TO EXPAND THE JURISDICTION OF MEDICAL EXAMINERS TO INCLUDE THESE DEATHS, AND TO STUDY DEATH REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-31 is amended by adding the following subsection to read:

"§ **122C-31. Report required upon death of client.**

...
 (g) In addition to the reporting requirements specified in subsections (a) through (e) of this section, and pursuant to G.S. 130A-383, every State facility shall report the death of any client of the facility, regardless of the manner of death, to the medical examiner of the county in which the body of the deceased is found."

SECTION 2. G.S. 130A-383(a) reads as rewritten:

"§ **130A-383. Medical examiner jurisdiction.**

(a) Upon the death of any person resulting from violence, poisoning, accident, suicide or homicide; occurring suddenly when the deceased had been in apparent good health or when unattended by a physician; occurring in a jail, prison, correctional institution or in police custody; occurring in State facilities operated in accordance with Part 5 of Article 4 of Chapter 122C of the General Statutes; occurring pursuant to Article 19 of Chapter 15 of the General Statutes; or occurring under any suspicious, unusual or unnatural circumstance, the medical examiner of the county in which the body of the deceased is found shall be notified by a physician in attendance, hospital employee, law-enforcement officer, funeral home employee, emergency medical technician, relative or by any other person having suspicion of such a death. No person shall disturb the body at the scene of such a death until authorized by the medical examiner unless in the unavailability of the medical examiner it is determined by the appropriate law enforcement agency that the presence of the body at the scene would risk the integrity of the body or provide a hazard to the safety of others. For the limited purposes of this Part, expression of opinion that death has occurred may be made by a nurse, an emergency medical technician or any other competent person in the absence of a physician."

SECTION 3. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the current death reporting requirements under G.S. 122C-26(5)c. and assess the need for any additional reporting requirements or modifications to existing rules or procedures. The Commission shall report its findings to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than November 1, 2008.

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, 2008.

Became law upon approval of the Governor at 6:06 p.m. on the 28th day of July, 2008.

Session Law 2008-132

H.B. 2728

AN ACT TO CONSOLIDATE THE BOARD OF TRUSTEES FOR THE NORTH CAROLINA 401(K) PLAN AND THE BOARD OF TRUSTEES OF THE NORTH CAROLINA PUBLIC EMPLOYEE DEFERRED COMPENSATION PLAN INTO THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES, AND CONCERNING COMPENSATION OF EMPLOYEES IN THE INVESTMENT DIVISION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-91(a) reads as rewritten:

"(a) The provisions of this Article shall be administered by the Department of State Treasurer and ~~a Board of Trustees consisting of the Board of Trustees of the Teachers' and State Employees' Retirement System and the Board of Trustees of the Local Governmental Employees' Retirement System.~~ the Supplemental Retirement Board of Trustees established in G.S. 135-96. The Department of State Treasurer and the Board of Trustees shall create a Supplemental Retirement Income Plan as of January 1, 1985, to be administered under the provisions of this Article."

SECTION 2. Article 5 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ 135-96. Supplemental Retirement Board of Trustees.

(a) The Supplemental Retirement Board of Trustees is established to administer the Supplemental Retirement Income Plan established under the provisions of this Article and the North Carolina Public Employee Deferred Compensation Plan established under G.S. 143B-426.24.

(b) The Board consists of nine voting members, as follows:

- (1) Six persons appointed by the Governor who have experience in finance and investments, one of whom shall be a State employee;
- (2) One person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives;
- (3) One person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; and
- (4) The State Treasurer, ex officio, who shall be the Chair.

(c) The initial appointments by the General Assembly and two of the Governor's initial appointments shall be for one-year terms. The remainder of the initial appointments shall be for two-year terms. At the expiration of these initial terms, appointments shall be for two years and shall be made by the appointing authorities designated in subsection (b) of this section. A member shall continue to serve until the member's 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) Other than ex officio members, members appointed by the Governor shall serve at the Governor's pleasure. An ex officio member may designate in writing, filed with the Board, any employee of the member's 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."

SECTION 3. 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 State Treasurer. The Board shall create, establish, implement, coordinate and administer a Deferred Compensation Plan for 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. Effective July 1, 2008, the

Plan shall be administered by the Supplemental Retirement Board of Trustees established under G.S. 135-96.

- ~~(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 Secretary of Administration, ex officio; and~~
 - ~~(5) The State Treasurer, 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 Supplemental Retirement 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 Supplemental Retirement Board to devise a uniform Deferred Compensation Plan for teachers and 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 Supplemental Retirement 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 Supplemental Retirement 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 Supplemental Retirement 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 Department of State Treasurer, 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 Supplemental Retirement 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 State Treasurer 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 4. Notwithstanding the provisions of G.S. 135-91, G.S. 143B-426.24, or any other provision of law, effective from July 1, 2008, through June 30, 2009, the North Carolina 401(k) Plan and the North Carolina Public Employee Deferred Compensation Plan shall be administered by a transitional Board of Trustees. The transitional Board of Trustees shall consist of nine members, as follows:

- (1) The two members of the Board of Trustees of the North Carolina 401(k) Plan who serve by virtue of their appointment to the Board of Trustees of the Teachers' and State Employees' Retirement System by the General Assembly pursuant to G.S. 135-6(b)(4);
- (2) The two members of the Board of Trustees of the North Carolina Deferred Compensation Plan appointed by the General Assembly pursuant to G.S. 143B-426.24(2) and (3);

- (3) Two of the members of the Board of Trustees of the North Carolina 401(k) Plan who serve by virtue of their appointment to the Board of Trustees of the Teachers' and State Employees' Retirement System by the Governor pursuant to G.S. 135-6(b)(3), to be determined by the Governor;
- (4) Two of the members of the Board of Trustees of the North Carolina Deferred Compensation Plan appointed by the Governor pursuant to G.S. 143B-426.24(1), to be determined by the Governor;
- (5) The State Treasurer, ex officio, who shall serve as Chair.

SECTION 5. In order to retain key public employees in the Investment Division, the State Treasurer is authorized to establish compensation including bonuses for the Chief Investment Officer and Investment Directors. The bonuses may be based on compensation studies conducted by a nationally recognized firm specializing in public fund investment compensation and the Pension Plan performance. The salaries and other associated benefits shall be apportioned directly from the investment program. The Treasurer shall report the bonuses paid to the Joint Legislative Commission on Governmental Operations annually.

SECTION 6. Sections 1 through 3 of this act become effective July 1, 2009. The remainder of this act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 6:08 p.m. on the 28th day of July, 2008.

Session Law 2008-133

H.B. 1624

AN ACT TO LIMIT THE FREQUENCY OF PAROLE REVIEWS FOR INMATES CONVICTED OF MURDER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1371(b), repealed by Section 22 of Chapter 538 of the 1993 Session Laws, but still applicable to sentences based on offenses occurring before October 1, 1994, under Section 56 of that act, reads as rewritten:

"(b) Consideration for Parole. – The Parole Commission must consider the desirability of parole for each person sentenced as a felon for a maximum term of 18 months or longer:

- (1) Within the period of 90 days prior to his eligibility for parole, if he is ineligible for parole until he has served more than a year;
- (2) Within the period of 90 days prior to the expiration of the first year of the sentence, if he is eligible for parole at any time. Whenever the Parole Commission will be considering for parole a prisoner who, if released, would have served less than half of the maximum term of his sentence, the Commission must notify the prisoner and the district attorney of the district where the prisoner was convicted at least 30 days in advance of considering the parole. If the district attorney makes a written request in such cases, the Commission must publicly conduct its consideration of parole. Following its consideration, the Commission must give the prisoner written notice of its decision. If parole is denied, the Commission must consider its decision while the

- prisoner is eligible for parole at least once a year until parole is granted and must give the prisoner written notice of its decision at least once a ~~year;~~ year, except as provided in subdivision (4) of this subsection, or
- (3) Whenever the Parole Commission will be considering for parole a prisoner convicted of first- or second-degree murder, first-degree rape, or first-degree sexual offense, the Commission must notify, at least 30 days in advance of considering the parole, by first class mail at the last known address:
- a. The prisoner;
 - b. The district attorney of the district where the prisoner was convicted;
 - c. The head of the law enforcement agency that arrested the prisoner, if the head of the agency has requested in writing that he be notified;
 - d. Any of the victim's immediate family members who have requested in writing to be notified; and
 - e. The victim, in cases of first-degree rape or first-degree sexual offense, if the victim has requested in writing to be notified.

The Parole Commission must consider any information provided by any such parties before consideration of parole. The Commission must also give the district attorney, the head of the law enforcement agency who has requested in writing to be notified, the victim, or any member of the victim's immediate family who has requested to be notified, written notice of its decision within 10 days of that decision.

- (4) The Commission shall review cases where the prisoner was convicted of first or second degree murder, and in its discretion, give consideration of parole and written notice of its decision once every third year; except that the Commission may give more frequent parole consideration if it finds that exigent circumstances or the interests of justice demand it."

SECTION 2. This act becomes effective October 1, 2008, and applies to parole reviews conducted on and after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 8:08 p.m. on the 28th day of July, 2008.

Session Law 2008-134

S.B. 1704

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

911 TECHNICAL CHANGES

SECTION 1.(a) G.S. 62A-44(b) reads as rewritten:

"(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses up to one percent (1%) of the total service charges remitted to it under G.S. 62A-43 for deposit in the 911 Fund. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are allocated as follows:

- (1) ~~Fifty three percent (53%)~~ A percentage of the funds remitted by CMRS providers to the 911 Fund are allocated for reimbursements to CMRS providers pursuant to G.S. 62A-45.
- (2) ~~Forty seven percent (47%)~~ A percentage of the funds remitted by CMRS providers and all funds remitted by all other voice communications service providers are allocated for monthly distributions to primary PSAPs pursuant to G.S. 62A-46 and grants to PSAPs pursuant to G.S. 62A-47.
- (3) The percentage of the funds remitted by CMRS providers allocated to CMRS providers and PSAPs shall be set by the 911 Board and may be adjusted by the 911 Board as necessary to ensure full cost recovery for CMRS providers and, to the extent there are excess funds, for distributions to primary PSAPs."

SECTION 1.(b) G.S. 62A-46(b) reads as rewritten:

"(b) **Percentage Designations.** – The 911 Board must determine how revenue that is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to make the base amount distribution required by subdivision (a)(1) of this section is to be used. The 911 Board must designate a percentage of the remaining funds to be distributed to primary PSAPs on a per capita basis and a percentage to be allocated to the PSAP Grant Account established in G.S. 62A-47. If the 911 Board does not designate an amount to be allocated to the PSAP Grant Account, the 911 Board must distribute all of the remaining funds on a per capita basis. The 911 Board may not change the percentage designation more than once each ~~calendar~~ fiscal year."

SECTION 1.(c) G.S. 62A-46 is amended by adding a new section to read:

"(f) **Application to Cherokees.** – The Eastern Band of Cherokee Indians is an eligible PSAP. The Tribal Council of the Eastern Band is the local governing entity of the Eastern Band for purposes of this section. The Tribal Council must give the 911 Board information adequate to determine the Eastern Band's base amount. The 911 Board must use the most recent federal census estimate of the population living on the Qualla Boundary to determine the per capita distribution amount."

SECTION 1.(d) Section 7.(c) of the S.L. 2007-383 reads as rewritten:

"**SECTION 7.(c)** Notwithstanding G.S. 62A-43, the charge imposed by that section does not apply to prepaid wireless telephone service for the 2008 calendar ~~year~~ year and for the first nine months of the 2009 calendar year."

SECTION 1.(e) This section is effective when it becomes law. Subsection (c) of this section applies to distributions for the 2007-2008 fiscal year and subsequent fiscal years.

WORK OPPORTUNITY TAX CREDIT CHANGES

SECTION 2.(a) G.S. 105-129.16G reads as rewritten:

"§ **105-129.16G. Work Opportunity Tax Credit.**

(a) **Credit.** – A taxpayer who is allowed a federal tax credit under Part IV, Subpart F of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to six percent (6%) of the amount of credit allowed under the ~~Code~~ Code for wages paid during the taxable year for positions located in this State. A position is located in this State if more than fifty percent (50%) of the employee's duties are performed in the State.

(b) **Sunset.** – This section expires for taxable years beginning on or after January 1, 2012."

SECTION 2.(b) G.S. 105-130.5(b)(11) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

- (11) If a deduction for an ordinary and necessary business expense was required to be reduced or was not allowed under the Code because the corporation claimed a federal tax credit against its federal income tax liability for the income year in lieu of a deduction, the amount by which the deduction was reduced and the amount of the deduction that was disallowed. This deduction is allowed only to the extent that a similar credit is not allowed by this Chapter for the amount."

SECTION 2.(c) G.S. 105-134.6(d)(2) reads as rewritten:

- "(2) The taxpayer may deduct the amount by which the taxpayer's deductions allowed under the Code were reduced, and the amount of the taxpayer's deductions that were not allowed, because the taxpayer elected a federal tax credit in lieu of a deduction. This deduction is allowed only to the extent that a similar credit is not allowed by this ~~Part~~Chapter for the amount."

SECTION 2.(d) Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2008. The remainder of this section is effective when it becomes law.

REFORM TAX APPEALS CHANGES

SECTION 3.(a) Section 10 of S.L. 2007-491 is repealed.

SECTION 3.(b) G.S. 105-122(a) reads as rewritten:

"(a) An annual franchise or privilege tax is imposed on a corporation doing business in this State. The tax is determined on the basis of the books and records of the corporation as of the close of its income year. A corporation subject to the tax must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the corporation. The return is due on or before the fifteenth day of the fourth month following the end of the corporation's income year.~~Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this Article, shall, on or before the fifteenth day of the third month following the end of its income year, annually make and deliver to the Secretary in the form prescribed by the Secretary a full, accurate, and complete report and statement signed by either its president, vice president, treasurer, assistant treasurer, secretary or assistant secretary, containing the facts and information required by the Secretary as shown by the books and records of the corporation at the close of the income year.~~

~~There shall be annexed to the return required by this subsection the affirmation of the officer signing the return."~~

SECTION 3.(c) Subsections (a) and (c) of this section are effective January 1, 2008. Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2009.

SECTION 4.(a) G.S. 105-130.16(a) reads as rewritten:

"(a) Return. – Every corporation doing business in this State must file with the Secretary an income tax return showing specifically the items of gross income and the deductions allowed by this Part and any other facts the Secretary requires to make any computation required by this Part. The return of a corporation must be signed by its president, vice-president, treasurer, ~~assistant treasurer, secretary, or assistant secretary.~~

or chief financial officer. The officer signing the return must furnish an affirmation verifying the return. The affirmation must be in the form required by the Secretary."

SECTION 4.(b) This section is effective for taxable years beginning on or after January 1, 2009.

SECTION 5.(a) G.S. 105-241.11(a) reads as rewritten:

"(a) Procedure. – A taxpayer who objects to a proposed denial of a refund or a proposed assessment of tax may request a Departmental review of the proposed action by filing a request for review. The request must be filed with the Department ~~within 45 days after the following:~~as follows:

- (1) ~~The~~Within 45 days of the date the notice of the proposed denial of the refund or proposed assessment was mailed to the taxpayer, if the notice was delivered by mail.
- (2) ~~The~~Within 45 days of the date the notice of the proposed denial of the refund or proposed assessment was delivered to the taxpayer, if the notice was delivered in person.
- (3) ~~The date that~~At any time between the date that inaction by the Department on a request for refund ~~was~~is considered a proposed denial of the ~~refund~~refund and the date the time periods set in the other subdivisions of this subsection expire."

SECTION 5.(b) This section is effective for taxable years beginning on or after January 1, 2008.

SECTION 6.(a) G.S. 105-241.14(c) reads as rewritten:

"(c) Time Limit. – The process set out in G.S. 105-241.13 for reviewing and attempting to resolve a proposed denial of a refund or a proposed assessment must conclude, and a final determination must be issued within nine months after the date the taxpayer files a request for review. The Department and the taxpayer may extend this time limit by mutual agreement. Failure to issue a notice of final determination within the required time does not affect the validity of a proposed denial of a refund or proposed assessment."

SECTION 6.(b) This section is effective for taxable years beginning on or after January 1, 2008.

SECTION 7.(a) G.S. 105-241.22(1) reads as rewritten:

§ 105-241.22. Collection of tax.

The Department may collect a tax in the following circumstances:

- (1) When a taxpayer files a return showing ~~tax~~an amount due with the return and does not pay the amount shown due."

SECTION 7.(b) This section is effective for taxable years beginning on or after January 1, 2008.

SECTION 8. G.S. 105-449.52(b) reads as rewritten:

"(b) ~~Hearing~~Review. – The procedure set out in G.S. 105-449.119 for ~~protesting~~reviewing a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section."

SECTION 9. G.S. 150B-31.1(d) reads as rewritten:

"(d) ~~Law Enforcement Reports.~~ – ~~A report of a law enforcement agency is~~The following agency reports are admissible without testimony from personnel of the ~~law enforcement agency~~agency:

- (1) Law enforcement reports.
- (2) Government agency lab reports used for the enforcement of motor fuel tax laws."

COLLECTION CHANGES

SECTION 10.(a) G.S. 105-253 is recodified as G.S. 105-242.2 and reads as rewritten:

"§ 105-242.2. Personal liability when certain taxes not remitted, paid.

(a) Definitions. – The following definitions apply in this section:

- (1) Business entity. – A corporation, a limited liability company, or a partnership.
- (2) Responsible person. – Any of the following:
 - a. The president, treasurer, or chief financial officer of a corporation.
 - b. A manager of a limited liability company or a partnership.
 - c. An officer of a corporation, a member of a limited liability company, or a partner in a partnership who has a duty to deduct, account for, or pay taxes listed in subsection (b) of this section.
 - d. A partner who is liable for the debts and obligations of a partnership under G.S. 59-45 or G.S. 59-403.

~~Any officer, trustee, or receiver of any corporation or limited liability company required to file a report with the Secretary who has custody of funds of the corporation or company and who allows the funds to be paid out or distributed to the stockholders of the corporation or to the members of the company without having remitted to the Secretary any State taxes that are due is personally liable for the payment of the tax.~~

(b) Responsible Person. – Each responsible officer person in a business entity is personally and individually liable for all of the following taxes listed in this subsection. If a business entity does not pay a tax it owes after the tax becomes collectible under G.S. 105-241.22, the Secretary may enforce the responsible person's liability for the tax by sending the responsible person a notice of proposed assessment in accordance with G.S. 105-241.9. The taxes for which a responsible person may be held personally and individually liable are:

- (1) All sales and use taxes collected by a corporation or a limited liability company the business entity upon its taxable transactions.
- (2) All sales and use taxes due upon taxable transactions of a corporation or a limited liability company the business entity but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.
- (3) All taxes due from a corporation or a limited liability company the business entity pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.
- (4) All income taxes required to be withheld from the wages of employees of a corporation or a limited liability company the business entity.

~~The liability of the responsible officer is satisfied upon timely remittance of the tax by the corporation or the limited liability company. If the tax remains unpaid after it is due and payable, the Secretary may proceed to enforce the responsible officer's liability for the tax by sending the responsible officer a notice of proposed assessment in accordance with G.S. 105-241.9. As used in this section, the term "responsible officer" means the president, treasurer, and chief financial officer of a corporation, the manager of a limited liability company, and any other officer of a corporation or member of a limited liability company who has a duty to deduct, account for, or pay taxes listed in~~

~~this subsection. Any penalties that may be imposed under G.S. 105-236 and that apply to a deficiency also apply to an assessment made under this section.~~

~~The period of limitations for assessing a responsible officer for unpaid taxes under this section expires one year after the expiration of the period of limitations for assessment against the corporation or limited liability company.~~

(c) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1007, s. 15.

(d) Distributions. – An officer, partner, trustee, or receiver of a business entity required to file a report with the Secretary who has custody of funds of the entity and who allows the funds to be paid out or distributed to the owners of the entity without having remitted to the Secretary any State taxes that are due is personally liable for the payment of the tax. The Secretary may enforce an individual's liability under this subsection by sending the individual a notice of proposed assessment in accordance with G.S. 105-241.9.

(e) Statute of Limitations. – The period of limitations for assessing a responsible person for unpaid taxes under this section expires one year after the expiration of the period of limitations for assessing the business entity."

SECTION 10.(b) This section becomes effective July 1, 2008, and applies to taxes that become collectible on or after that date.

SALES TAX CHANGES

SECTION 11. G.S. 105-164.16 is amended by adding a new subsection to read:

"(e) Simultaneous State and Local Changes. – When State and local sales and use tax rates change on the same date because one increases and the other decreases but the combined general rate does not change, sales and use taxes payable on the gross receipts from the following periodic payments are reportable in accordance with the changed State and local rates:

- (1) Lease or rental payments billed after the effective date of the changes.
- (2) Installment sale payments received after the effective date of the changes by a taxpayer who reports the installment sale on a cash basis."

OCCUPANCY TAX CHANGES

SECTION 12.(a) Article 9 of Chapter 105 is amended by adding a new section to read:

"§ 105-264.1. Secretary's interpretation applies to local taxes that are based on State taxes.

An interpretation by the Secretary of a law administered by the Secretary applies to a local law administered by a unit of local government when the local law refers to the State law to determine the application of the local law. A person who is subject to the local law or the unit of local government that administers the local law may ask the Secretary for an interpretation of the State law that determines the application of the local law. An interpretation by the Secretary of a State law that determines the application of a local law provides the same protections against liability under the local law that it provides under the State law."

SECTION 12.(b) G.S. 153A-155(c) reads as rewritten:

"(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. If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If

those provisions do not address the type of package offered, the operator may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the operator's business records kept in the ordinary course of business and collect tax on the allocated price of the taxable accommodation. ~~The~~

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~~

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."

SECTION 12.(c) G.S. 160A-215(c) reads as rewritten:

"(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. If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the operator may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the operator's business records kept in the ordinary course of business and collect tax on the allocated price of the taxable accommodation. ~~The~~

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 city. 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~~

The taxing city shall design, print, and furnish to all appropriate businesses and persons in the city 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 city a discount equal to the discount the State allows the operator for State sales and use tax."

MEDICAID TECHNICAL CHANGES

SECTION 13.(a) G.S. 105-502 reads as rewritten:

"§ **105-502. Use of additional tax revenue by counties.**

(a) **Restriction.** – ~~Sixty percent (60%) of the revenue received by a county under this Article during~~ For the first 25 fiscal years in which the tax is in effect may be used by the taxes levied under this Article by a county are in effect, the county only must use sixty percent (60%) of the amount of revenue specified in this subsection for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes during the period beginning five years prior to the date the taxes took effect. ~~effect:~~

- (1) The amount of revenue the county receives under this Article.
- (2) If the amount allocated to the county under G.S. 105-486 is greater than the amount allocated to the county under G.S. 105-501(a), the difference between the two amounts.

(b) **Exception.** – The Local Government Commission may, upon petition by a county, authorize a county to use part or all of its tax the revenue, otherwise required by subsection (a) to be used for public school capital outlay purposes, for any lawful

purpose. The petition ~~shall~~ must be in the form of a resolution adopted by the Board of County Commissioners and transmitted to the Local Government Commission. The petition ~~shall~~ must demonstrate that the county can provide for its public school capital needs without restricting the use of part or all of the ~~designated amount of the additional one-half percent (1/2%) sales and use tax specified~~ revenue for these purposes.

In making its decision, the Local Government Commission ~~shall~~ must consider information in the petition concerning not only the public school capital needs but also the other capital needs of the petitioning county. The Commission may consider information from sources other than the petition. The Commission ~~shall~~ must issue a written decision on each petition stating the findings of the Commission concerning the public school capital needs of the petitioning county and the percentage of revenue otherwise restricted by subsection (a) that may be used by the petitioning county for any lawful purpose.

Decisions of the Commission allowing counties to use a percentage of ~~their tax~~ the revenue that would otherwise be restricted under subsection (a) for any lawful purpose are final and ~~shall~~ continue in effect until the restrictions ~~imposed by those subsections~~ expire. A county whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(c) Reserve Fund. – A county may expend part or all of the revenue restricted for public school capital needs pursuant to subsection (a) in the fiscal year in which the revenue is received, or the county may place part or all of this revenue in a capital reserve ~~fund and shall fund.~~ A county must specifically identify this revenue placed in a reserve fund in accordance with Chapter 159 of the General Statutes.

(d) Taxes in Effect. – For purposes of this section in determining the number of fiscal years in which one-half percent (1/2%) sales and use taxes levied under this Article have been in effect in a county, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect."

SECTION 13.(b) This section becomes effective October 1, 2009, and applies to distributions for months beginning on or after that date.

SECTION 14.(a) G.S. 105-522, as enacted by Section 31.16.3(f) of S.L. 2007-323, reads as rewritten:

"§ **105-522. City hold harmless for repealed local taxes.**

(a) Definitions. – The following definitions apply in this section:

- (1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.
- (2) Hold harmless amount. – Fifty percent (50%) of the amount of sales and use tax revenue ~~distributed under Article 40 of this Chapter to the municipality for a month, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.~~ allocated under G.S. 105-486 for distribution to a municipality.

(b) Requirement. – A county is required to hold the eligible municipalities in the county harmless from the repeal of the local sales and use taxes formerly imposed under this Article. The Secretary must add an eligible municipality's hold harmless amount to the amount ~~distributed to the~~ otherwise allocated to the municipality for distribution under this Subchapter. To obtain the revenue for the hold harmless distribution, the

Secretary must reduce ~~each county's monthly allocation under G.S. 105-472(b) the amount otherwise allocated to a county for distribution under Article 39 of this Subchapter or under Chapter 1096 of the 1967 Session Laws by the hold harmless amounts for the municipalities in that county.~~"

SECTION 14.(b) Section 31.16.3(d) of S.L. 2007-323 is repealed.

SECTION 14.(c) Section 31.16.3(e) of S.L. 2007-323 is repealed.

SECTION 14.(d) Subsection (a) of this section becomes effective October 1, 2008, and applies to distributions for months beginning on or after that date. The remainder of this section is effective when it becomes law.

SECTION 15.(a) G.S. 105-523, as enacted by Section 31.16.3(f) of S.L. 2007-323, reads as rewritten:

"§ **105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least five hundred thousand dollars (\$500,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

(1) City hold harmless amount. – The hold harmless amount determined under G.S. 105-522 for the eligible municipalities in a county.

~~(1)(2)~~ (2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less five hundred thousand dollars (\$500,000).

~~(2)(3)~~ (3) Repealed sales tax amount. – Fifty percent (50%) of the amount of sales and use tax revenue distributed to a county under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B, allocated under G.S. 105-486 for distribution to a county.

(c) Requirement. – If a county's repealed sales tax amount plus its city hold harmless amount for a fiscal year exceeds the county's hold harmless threshold for that fiscal year, the State is required to hold the county harmless for the difference by paying the amount of the difference to the county. The Secretary must withhold from sales and use tax collections under Article 5 of this Chapter the amount needed to make the county hold harmless payments required by this section.

(d) Method. – The Secretary must estimate a county's repealed sales tax ~~amount~~ amount, city hold harmless amount, and hold harmless threshold for a fiscal year to determine if the county is eligible for a hold harmless payment. The Secretary must send to an eligible county with the distribution made under G.S. 105-472 for March of that year an amount equal to ninety percent (90%) of its estimated hold harmless payment. At the end of each fiscal year, the Secretary must determine ~~the difference between a county's repealed sales tax amount and its each county's hold harmless threshold payment~~ for that year. The Secretary must send by August 15 the remainder of the county's hold harmless payment for the fiscal year that ended on June 30. The Secretary of the Department of Human Resources must give the Secretary of Revenue the data needed to determine a county's hold harmless threshold."

SECTION 15.(b) Section 31.16.3(g) of S.L. 2007-323 is repealed.

SECTION 15.(c) Section 31.16.4(c) of S.L. 2007-323 is repealed.

SECTION 15.(d) Section 31.16.4(d) of S.L. 2007-323 is repealed.

SECTION 15.(e) Section 31.16.4(e) of S.L. 2007-323 is repealed.

SECTION 15.(f) Section 14.4 of S.L. 2007-345 is repealed.

SECTION 15.(g) G.S. 105-522(a)(2), as enacted by Section 31.16.3(f) of S.L. 2007-323 and amended by Section 14 of this act, reads as rewritten:

"(2) Hold harmless amount. – ~~Fifty percent (50%) of the~~The sum of the following amounts allocated for distribution to a municipality for a month:

- a. The amount of sales and use tax revenue allocated under G.S. 105-486 for distribution to a municipality. 105-486. This calculation determines the effect of repealing a one-half percent (½%) sales and use tax distributed on a per capita basis.
- b. An amount determined by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis."

SECTION 15.(h) G.S. 105-523(b)(3), as enacted by Section 31.16.3(f) of S.L. 2007-323 and as amended by subsection (a) of this section, reads as rewritten:

"(3) Repealed sales tax amount. – ~~Fifty percent (50%) of the~~The sum of the following amounts allocated for distribution to a county for a month:

- a. The amount of sales and use tax revenue allocated under G.S. 105-486 for distribution to a county. 105-486. This calculation determines the effect of repealing a one-half percent (½%) sales and use tax distributed on a per capita basis.
- b. An amount determined by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis."

SECTION 15.(i) For fiscal year 2008-2009, the hold harmless amount determined for a municipality under G.S. 105-522 and the repealed sales tax amount determined for a county under G.S. 105-523 is reduced by the amount distributed in October, November, and December of 2008 to the municipality or county on a per capita basis under repealed G.S. 105-520(b).

For fiscal year 2009-2010, the hold harmless amount determined for a municipality under G.S. 105-522 and the repealed sales tax amount determined for a county under G.S. 105-523 is reduced by the amount distributed in October, November, and December of 2009 to the municipality or county on the basis of point of origin under repealed G.S. 105-520(a).

SECTION 15.(j) Subsection (a) of this section becomes effective October 1, 2008, and applies to distributions for months beginning on or after that date. Subsections (g) and (h) of this section become effective October 1, 2009, and apply to

distributions for months beginning on or after that date. The remainder of this section is effective when it becomes law.

MOTOR FUEL TAX LAW CHANGES

SECTION 16. G.S. 105-449.37 reads as rewritten:

"§ **105-449.37. Definitions; tax liability.**

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

(1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the International Fuel Tax Association, Inc., as amended as of June 1, 2008.

(2) Motor carrier. – A person who operates or causes to be operated on any highway in this State a motor vehicle that is a qualified motor ~~vehicle under the International Fuel Tax Agreement.~~ vehicle. The term does not include the United States, ~~the State,~~ a state, or a political subdivision of ~~the State.~~ a state.

~~(1a)~~(3) Motor vehicle. – ~~A motor vehicle as defined in G.S. 105-164.3 other than special mobile equipment as defined in G.S. 105-164.3.~~ Defined in G.S. 20-4.01.

~~(2)~~(4) Operations. – ~~Operations of all motor vehicles described in subdivision (1).~~ The movement of a qualified motor vehicle by a motor carrier, whether loaded or empty and whether or not operated for compensation.

~~(2a)~~(5) Person. – Defined in G.S. 105-228.90.

(6) Qualified motor vehicle. – Defined in the International Fuel Tax Agreement.

~~(3)~~(7) Secretary. – ~~The Secretary of Revenue.~~ Defined in G.S. 105-228.90.

(b) Liability. – A motor carrier who operates on one or more days of a reporting period is liable for the tax imposed by this Article for that reporting period and is entitled to the credits allowed for that reporting period."

SECTION 17. G.S. 105-449.38 reads as rewritten:

"§ **105-449.38. Tax levied.**

A road tax for the privilege of using the streets and highways of this State is imposed upon every motor carrier on the amount of motor fuel or alternative fuel used by the carrier in its operations within this State. The tax shall be at the rate established by the Secretary pursuant to G.S. 105-449.80 or G.S. 105-449.136, as appropriate. This tax is in addition to any other taxes imposed on motor ~~carriers~~ carriers."

SECTION 18. G.S. 105-449.44 reads as rewritten:

"§ **105-449.44. How to determine the amount of fuel used in the State; presumption of amount used.**

(a) Calculation. – The amount of motor fuel or alternative fuel a motor carrier uses in its operations in this State for a reporting period is the number of miles the motor carrier travels in this State during that period divided by the calculated miles per gallon for the motor carrier for all qualified motor vehicles during that period.

(b) Presumption. – The Secretary must check reports filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation and the State Highway Patrol of the Department of Crime Control and Public Safety concerning motor carriers to determine if motor carriers that are operating in this State are filing the reports required by this Article. ~~The Department may assess a motor carrier for the amount payable based on the presumed mileage. A motor carrier that does either of the following for a quarter is presumed to~~

~~have traveled in this State during that quarter the number of miles equal to 10 trips of 450 miles each for each of the motor carrier's vehicles. If the records indicate that a motor carrier operated in this State in a quarter and either did not file a report for that quarter or understated its mileage in this State on a report filed for that quarter by at least twenty-five percent (25%), the Secretary may assess the motor carrier for an amount based on the motor carrier's presumed operations. The motor carrier is presumed to have mileage in this State equal to 10 trips of 450 miles each for each of the motor carrier's qualified motor vehicles and to have fuel usage of four miles per gallon.~~

- ~~(1) Fails to file a report for the quarter and the records of the Division indicate the carrier operated in this State during the quarter.~~
- ~~(2) Files a report for the quarter that, based on the records of the Division, understates by at least twenty five percent (25%) the carrier's mileage in this State for the quarter.~~

(c) Vehicles. – The number of qualified motor vehicles of a motor carrier that is registered under this Article is the number of ~~identification markers~~ sets of decals issued to the carrier. The number of qualified motor vehicles of a carrier that is not registered under this Article is the number of qualified motor vehicles registered by the motor carrier in the carrier's base state under the International Registration Plan."

SECTION 19. G.S. 105-449.47 reads as rewritten:

"§ **105-449.47. Registration of vehicles.**

(a) Requirement. – A motor carrier that is subject to the International Fuel Tax Agreement may not operate or cause to be operated in this State ~~any vehicle listed in the definition of motor vehicle~~ a qualified motor vehicle unless both the motor carrier and ~~the~~ at least one qualified motor vehicle are registered with the motor carrier's base state jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement may not operate or cause to be operated in this State ~~any vehicle listed in the definition of motor vehicle~~ a qualified motor vehicle unless both the motor carrier and ~~the~~ at least one qualified motor vehicle are registered with the Secretary for purposes of the tax imposed by this Article. This subsection applies to a motor carrier that operates a recreational vehicle that is considered a qualified motor vehicle.

(a1) Registration and ~~Identification Marker~~ Decal. – When the Secretary registers a motor carrier, the Secretary must issue a registration card for the motor carrier and at least one identification marker a set of decals for each qualified motor vehicle operated by the motor carrier. ~~carrier registers.~~ A motor carrier must keep records of ~~identification markers~~ decals issued to it and must be able to account for all ~~identification markers~~ decals it receives from the Secretary. Registrations and ~~identification markers~~ decals issued by the Secretary are for a calendar year. All ~~identification markers~~ decals issued by the Secretary remain the property of the State. The Secretary may revoke a registration or ~~an identification marker~~ a decal when a motor carrier fails to comply with this Article 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~~ one decal on each side of the vehicle at all times. ~~The identification marker~~ A decal must be affixed to the qualified motor vehicle for which it was issued in the place and manner designated by the authority that issued it.

(b) Exemption. – This section does not apply to the operation of a qualified motor vehicle that is registered in another state and is operated temporarily in this State by a public utility, a governmental or cooperative provider of utility services, or a

contractor for one of these entities for the purpose of restoring utility services in an emergency outage."

SECTION 20. G.S. 105-449.47A reads as rewritten:

"§ **105-449.47A. Reasons why the Secretary can deny an application for a registration and identification marker-decals.**

The Secretary may refuse to register and issue ~~an identification marker~~ a decal to an applicant that has done any of the following:

- (1) Had a registration issued under Chapter 105 or Chapter 119 of the General Statutes cancelled by the Secretary for cause.
- (2) Had a registration issued by another jurisdiction, pursuant to ~~G.S. 105-449.57,~~ the International Fuel Tax Agreement, cancelled for cause.
- (3) Been convicted of fraud or misrepresentation.
- (4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if registered and issued ~~an identification marker~~ a decal.
- (5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.
- (6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

SECTION 21. G.S. 105-449.50 is repealed.

SECTION 22. G.S. 105-449.51 reads as rewritten:

"§ **105-449.51. Violations declared to be misdemeanors.**

Any person who operates or causes to be operated on a highway in this State a qualified motor vehicle that does not carry a registration card as required by this Article, does not properly display ~~an identification marker~~ a decal as required by this Article, or is not registered in accordance with this Article ~~is guilty of~~ commits a Class 3 misdemeanor ~~and, upon conviction thereof, shall be fined and is punishable by a fine of two hundred dollars (\$200.00). Each day's operation in violation of any provision of this section shall constitute~~ constitutes a separate offense."

SECTION 23. G.S. 105-449.52 reads as rewritten:

"§ **105-449.52. Civil penalties applicable to motor carriers.**

(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 qualified motor vehicle that either fails to carry the registration card required by this Article or fails to display ~~an identification marker~~ a decal in accordance with this Article. The amount of the penalty is one hundred dollars (\$100.00).
- (2) Is unable to account for ~~identification markers~~ a decal 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-decal~~ marker-decal for which the carrier is unable to ~~account for~~ account.
- (3) Displays ~~an identification marker~~ a decal on a qualified 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-decal~~ marker-decal unlawfully obtained. Both the licensed motor carrier to whom the

Secretary issued the ~~identification marker decal~~ and the motor carrier displaying the unlawfully obtained ~~identification marker decal~~ are jointly and severally liable for the penalty under this subdivision.

(a1) Payment. – A penalty imposed under this section is payable to the agency that assessed the penalty. When a qualified motor vehicle is found to be operating without a registration card or ~~an identification marker a decal~~ or with ~~an identification marker a decal~~ the Secretary did not issue for the vehicle, the qualified motor vehicle may not be driven for a purpose other than to park ~~the motor vehicle~~ it until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that ~~operation of the motor vehicle operating it~~ will not jeopardize collection of the penalty.

(b) Hearing. – The procedure set out in G.S. 105-449.119 for protesting a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section."

SECTION 24. G.S. 105-449.60 reads as rewritten:

"§ **105-449.60. Definitions.**

The following definitions apply in this Article:

- (1) Additive. – A de minimus amount of product that is added or mixed with motor fuel. Examples of an additive include fuel system detergent, an oxidation inhibitor, gasoline antifreeze, or an octane enhancer.
- (2) Aviation gasoline. – Fuel blended or produced specifically for use in an aircraft motor.
- ~~(1)~~(3) Biodiesel. – Any fuel or mixture of fuels derived in whole or in part from agricultural products or animal fats or wastes from these products or fats.
- ~~(1a)~~(4) Biodiesel provider. – A person who does any of the following:
 - a. Produces an average of no more than 500,000 gallons of biodiesel per month during a calendar year. A person who produces more than this amount is a refiner.
 - b. Imports biodiesel outside the terminal transfer system by means of ~~a marine vessel~~, a transport truck, a railroad tank car, or a tank wagon.
- ~~(1b)~~ ~~to~~ ~~(1d)~~ ~~Reserved for future codification purposes.~~
- ~~(1e)~~(5) Blended fuel. – A mixture composed of gasoline or diesel fuel and another liquid, other than ~~a de minimus amount of a product such as carburetor detergent or oxidation inhibitor~~, an additive, that can be used as a fuel in a highway vehicle.
- ~~(2)~~(6) Blender. – A person who produces blended fuel outside the terminal transfer system.
- (7) Bonded importer. – A person, other than a supplier, who imports by transport truck or another means of transfer outside the terminal transfer system motor fuel removed from a terminal located in another state in one or more of the following circumstances:
 - a. The state from which the fuel is imported does not require the seller of the fuel to collect motor fuel tax on the removal of the fuel at that state's rate or the rate of the destination state.
 - b. The supplier of the fuel is not an elective supplier.
 - c. The supplier of the fuel is not a permissive supplier.

- ~~(3)~~(8) ~~Bulk end user.~~ Bulk end-user. – A person who maintains storage facilities for motor fuel and uses part or all of the stored fuel to operate a highway vehicle.
- ~~(4)~~(9) Bulk plant. – A motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.
- ~~(5)~~(10) Code. – Defined in G.S. 105-228.90.
- ~~(6)~~(11) Destination state. – The state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use.
- ~~(7)~~(12) Diesel fuel. – Any liquid, other than gasoline, that is suitable for use as a fuel in a diesel-powered highway vehicle. The term includes 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.fuel.
- ~~(8)~~(13) Distributor. – A person who acquires motor fuel from a supplier or from another distributor for subsequent sale. does one or more of the activities listed in this subdivision. The term does not include a person who sells motor fuel only at retail.
- a. Produces, refines, blends, compounds, or manufactures motor fuel.
 - b. Transports motor fuel into a state or exports motor fuel out of a state.
 - c. Engages in the distribution of motor fuel primarily by tank car or tank truck or both.
 - d. Operates a bulk plant where the person has active motor fuel bulk storage.
- (14) Diversion. – The movement of motor fuel from a terminal to a state other than the destination state indicated on the original bill of lading.
- ~~(9)~~(15) Dyed diesel fuel. – Diesel fuel that meets the dyeing and marking requirements of ~~§ 4082 of the Code~~as set out in 26 C.F.R. § 48.4082.1.
- ~~(10)~~(16) Elective supplier. – A supplier that is required to be licensed in this State and that elects to collect the excise tax due this State on motor fuel that is removed by the supplier at a terminal located in another state and has this State as its destination state.
- ~~(10a)~~(17) Exempt card or code. – A credit card or an access code that enables the person to whom the card or code is issued to buy motor fuel at retail without paying the motor fuel excise tax on the fuel.
- ~~(11)~~(18) Export. – To obtain motor fuel in this State for sale or other distribution in another state. In applying this definition, motor fuel delivered out-of-state by or for the seller constitutes an export by the seller and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.
- ~~(12)~~(19) Fuel alcohol. – Alcohol, methanol, or fuel grade ethanol.
- ~~(13)~~(20) Fuel alcohol provider. – A person who does any of the following:
- a. Produces an average of no more than 500,000 gallons of fuel alcohol per month during a calendar year. A person who produces more than this amount is a refiner.

- b. Imports fuel alcohol outside the terminal transfer system by means of ~~a marine vessel~~, a transport truck, a railroad tank car, or a tank wagon.
- ~~(14)~~(21) Gasohol. – A blended fuel composed of gasoline and fuel grade ethanol.
- ~~(15)~~(22) Gasoline. – Any of the following:
- a. All products that are commonly or commercially known or sold as gasoline and are suitable for use as a fuel in a highway vehicle, other than products that have an American Society for Testing Materials octane number of less than 75 as determined by the motor method. The term does not include aviation gasoline.
 - b. A petroleum product component of gasoline, such as naphtha, reformat, or toluene.
 - c. Gasohol.
 - d. Fuel alcohol.
- ~~The term does not include aviation gasoline sold for use in an aircraft motor. "Aviation gasoline" is gasoline that is designed for use in an aircraft motor and is not adapted for use in an ordinary highway vehicle.~~
- ~~(16)~~(23) Gross gallons. – The total amount of motor fuel measured in gallons, exclusive of any temperature, pressure, or other adjustments.
- ~~(17)~~(24) Highway. – Defined in G.S. 20-4.01(13).
- ~~(18)~~(25) Highway vehicle. – A self-propelled vehicle that is designed for use on a highway.
- ~~(19)~~(26) Import. – To bring motor fuel into this State by any means of conveyance other than in the fuel supply tank of a highway vehicle. In applying this definition, motor fuel delivered into this State from out-of-state by or for the seller constitutes an import by the seller, and motor fuel delivered into this State from out-of-state by or for the purchaser constitutes an import by the purchaser.
- ~~(19a)~~(27) ~~In State only In State~~ supplier. – Either of the following:
- a. A supplier that is required to have a license and elects not to collect the excise tax due this State on motor fuel that is removed by the supplier at a terminal located in another state and has this State as its destination state.
 - b. A supplier that does business only in this State.
- (28) Jet fuel. – Kerosene that meets all of the following requirements:
- a. Has a maximum distillation temperature of 400 degrees Fahrenheit at the ten percent (10%) recovery point and a final maximum boiling point of 572 degrees Fahrenheit.
 - b. Meets American Society Testing Materials Specification D 1655 and Military Specifications MIL-T-5624P and MIL-T-83133D, Grades JP-5 and JP-8.
- (29) Kerosene. – Petroleum oil that is free from water, glue, and suspended matter and that meets the specifications and standards adopted under G.S. 119-26 by the Gasoline and Oil Inspection Board.
- (30) Marine vessel. – A ship, boat, or other watercraft used or capable of being used to move in or through a waterway.

- ~~(20)~~(31) Motor fuel. – Gasoline, diesel fuel, and blended fuel.
- ~~(21)~~(32) Motor fuel rate. – The rate of tax set in G.S. 105-449.80.
- ~~(22)~~(33) Motor fuel transporter. – A person who transports motor fuel by ~~pipeline or who transports motor fuel outside the terminal transfer system by means of a pipeline,~~ transport truck, a-railroad tank car, or a marine vessel.
- ~~(23)~~(34) Net gallons. – The amount of motor fuel measured in gallons when corrected to a temperature of 60 degrees Fahrenheit and a pressure of 14 7/10 pounds per square inch.
- (35) Occasional importer. – One or more of the following that imports motor fuel by any means outside the terminal transfer system:
- a. A distributor that imports motor fuel on an average basis of no more than once a month during a calendar year.
 - b. A bulk end-user that acquires motor fuel for import from a bulk plant and is not required to be licensed as a bonded importer.
 - c. A distributor that imports motor fuel for use in a race car.
- ~~(24)~~(36) Permissive supplier. – An out-of-state supplier that elects, but is not required, to have a supplier's license under this Article.
- ~~(25)~~(37) Person. – Defined in G.S. 105-228.90.
- (38) Pipeline. – A fuel distribution system that moves motor fuel, in bulk, through a pipe either from a refinery to a terminal or from a terminal to another terminal.
- ~~(26)~~(39) Position holder. – The person who holds the inventory position ~~in~~ on the motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position ~~in~~ on the motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.
- ~~(27)~~(40) Rack. – A mechanism for delivering motor fuel from a refinery, a terminal, or a bulk plant into a transport truck, a railroad tank car, or another means of transfer that is outside the terminal transfer system.
- ~~(27a)~~(41) Refiner. – A person who owns, operates, or controls a refinery. The term includes a person who produces an average of more than 500,000 gallons of fuel alcohol or biodiesel a month during a calendar year.
- ~~(27b)~~(42) Refinery. – A facility used to process crude oil, unfinished oils, natural gas liquids, or other hydrocarbons into motor fuel and from which fuel may be removed by pipeline or vessel or at a rack. The term does not include a facility that produces only blended fuel or gasohol.
- ~~(28)~~(43) Removal. – A physical transfer other than by evaporation, loss, or destruction. A physical transfer to a transport truck or another means of conveyance outside the terminal transfer system is complete upon delivery into the means of conveyance.
- ~~(29)~~(44) Retailer. – A person who maintains storage facilities for motor fuel and who sells the fuel at retail or dispenses the fuel at a retail location.
- ~~(30)~~(45) Secretary. – Defined in G.S. 105-228.90.
- ~~(31)~~(46) Supplier. – Any of the following:
- a. A position holder or a person who receives motor fuel pursuant to a two-party exchange.

- b. A fuel alcohol provider.
 - c. A biodiesel provider.
 - d. A refiner.
- (32)(47) System transfer. – Either of the following:
- a. A transfer of motor fuel within the terminal transfer system.
 - b. A transfer, by transport truck or railroad tank car, of fuel grade ethanol.
- (33)(48) Tank wagon. – A truck that is not a transport truck and is designed or used to carry at least 1,000 gallons of motor fuel.
- (49) Tank wagon importer. – A person who imports only by means of a tank wagon motor fuel that is removed from a terminal or a bulk plant located in another state.
- (33a)(50) Tax. – An inspection or other excise tax on motor fuel and any other fee or charge imposed on motor fuel on a per-gallon basis.
- (34)(51) Terminal. – A motor fuel storage and distribution facility that has been assigned a terminal control number by the Internal Revenue Service, is supplied by pipeline or marine vessel, and from which motor ~~fuel~~ fuel, jet fuel, or aviation gasoline may be removed at a rack.
- (35)(52) Terminal operator. – A person who owns, operates, or otherwise controls a terminal.
- (36)(53) Terminal transfer system. – The motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals. The term has the same meaning as "bulk transfer/terminal system" under 26 C.F.R. § 48.4081-1.
- (37)(54) Transmix. – Either of the following:
- a. The buffer or interface between two different products in a pipeline shipment.
 - b. A mix of two different products within a refinery or terminal that results in an off-grade mixture.
- (38)(55) Transport truck. – A ~~semitrailer-tractor trailer combination rig~~ designed or used to transport loads of motor fuel over a highway.
- (39)(56) Trustee. – A person who is licensed as a ~~supplier, an elective supplier, or a permissive supplier~~ and who receives tax payments from and on behalf of a licensed ~~distributor~~ distributor or licensed importer for remittance to the Secretary.
- (40)(57) Two-party exchange. – A transaction in which motor fuel is transferred from one licensed supplier to another licensed supplier pursuant to an exchange agreement under which the supplier that is the position holder agrees to deliver motor fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder.
- (41)(58) User. – A person who owns or operates a licensed highway vehicle that has a registered gross vehicle weight of at least 10,001 pounds and who does not maintain storage facilities for motor fuel."

SECTION 25. G.S. 105-449.65 reads as rewritten:

"§ 105-449.65. 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 that business:

- (1) A refiner.
- (2) A supplier.
- (3) A terminal operator.
- (4) An importer.
- (5) An exporter.
- (6) A blender.
- (7) A motor fuel ~~transporter~~ transporter who transports motor fuel for hire.
- (8) Repealed by Session Laws 1999-438, s. 20, effective August 10, 1999.
- (9) Repealed by Session Laws 1999-438, s. 21, effective August 10, 1999.
- (10) A distributor who purchases motor fuel from an elective or permissive supplier at an out-of-state terminal for import into this State.

(b) Multiple Activity. – A person who is engaged in more than one activity for which a license is required must have a separate license for each activity, unless ~~this subsection~~ one of the following subdivisions provides otherwise. ~~A~~

- (1) Supplier. – A person who is licensed as a supplier is considered to have a license as a distributor. A person who is licensed as a supplier and is a biodiesel provider is considered to have a license as a blender.
- (2) Importer. – A person who is licensed as an occasional importer or a tank wagon importer is not required to obtain a separate license as a distributor unless the importer is also purchasing motor fuel, at the terminal rack, from an elective or permissive supplier who is authorized to collect and remit the tax to the State.
- (3) Distributor. – A person who is licensed as a distributor is not required to obtain a separate license as an importer if the distributor acquires fuel for import only from an elective supplier or a permissive supplier and is not required to obtain a separate license as an exporter. ~~A person who is licensed as a distributor or a blender and who transports fuel is considered to be licensed as a motor fuel transporter."~~

SECTION 26. G.S. 105-449.66 reads as rewritten:

"§ 105-449.66. ~~Types of importers; restrictions on who can get a license as an importer.~~ Importer licensing.

(a) ~~Types.~~—An applicant for a license as an importer must indicate on the application the type of importer license sought. The types of importers are bonded importer, occasional importer, and tank wagon importer. ~~as follows:~~

- (1) ~~Bonded importer.~~—A bonded importer is a person, other than a supplier, who imports, by transport truck or another means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in another state in any of the following circumstances:
 - a. ~~The state from which the fuel is imported does not require the seller of the fuel to collect motor fuel tax on the removal either at that state's rate or the rate of the destination state.~~
 - b. ~~The supplier of the fuel is not an elective supplier.~~
 - e. ~~The supplier of the fuel is not a permissive supplier.~~
- (2) ~~Occasional importer.~~—An occasional importer is any of the following that imports motor fuel by any means outside the terminal transfer system:
 - a. ~~A distributor that imports motor fuel on an average basis of no more than once a month during a calendar year.~~

- b. ~~A bulk end user that acquires motor fuel for import from a bulk plant and is not required to be licensed as a bonded importer.~~
- e. ~~A distributor that imports motor fuel for use in a race car.~~
- (3) ~~Tank wagon importer. — A tank wagon importer is a person who imports, only by means of a tank wagon, motor fuel that is removed from a terminal or a bulk plant located in another state.~~

(b) ~~Restrictions.~~—A person may not be licensed as more than one type of importer. A ~~bulk end user~~ bulk end-user that imports motor fuel from a terminal of a supplier that is not an elective or a permissive supplier must be licensed as a bonded importer. A ~~bulk end user~~ bulk end-user that imports motor fuel from a bulk plant and is not required to be licensed as a bonded importer must be licensed as an occasional importer. A ~~bulk end user~~ bulk end-user that imports motor fuel only from a terminal of an elective or a permissive supplier is not required to be licensed as an importer."

SECTION 27. G.S. 105-449.68 reads as rewritten:

"§ **105-449.68. Restrictions on who can get a license as a distributor.**

A ~~bulk end user~~ bulk end-user of motor fuel may not be licensed as a distributor unless the ~~bulk end user~~ bulk end-user also acquires motor fuel from a supplier or from another distributor for subsequent sale. This restriction does not apply to a ~~bulk end user~~ bulk end-user that was licensed as a distributor on January 1, 1996. If a distributor license held by a ~~bulk end user~~ bulk end-user on January 1, 1996, is subsequently cancelled, the ~~bulk end user~~ bulk end-user is subject to the restriction set in this section."

SECTION 28. G.S. 105-449.69(c) reads as rewritten:

"(c) Federal Certificate. — An applicant for a license as a refiner, a supplier, a terminal operator, ~~or a blender, or a permissive supplier~~ blender must have a federal Certificate of Registry that is issued under § 4101 of the Code and authorizes the applicant to enter into federal tax-free transactions in taxable motor fuel in the terminal transfer system. An applicant that is required to have a federal Certificate of Registry must include the registration number of the certificate on the application for a license under this section.

An applicant for a license as an importer, an exporter, or a distributor that has a federal Certificate of Registry issued under § 4101 of the Code must include the registration number of the certificate on the application for a license under this section."

SECTION 29. G.S. 105-449.70(a) reads as rewritten:

"(a) Election. — An applicant for a license as a supplier may elect on the application to collect the excise tax due this State on motor fuel that is removed by the supplier at a terminal located in another state and has this State as its destination state. The Secretary must provide for this election on the application form. A supplier that makes the election allowed by this section is an elective supplier. A supplier that does not make the election allowed by this section is an ~~in-State only~~ in-State supplier.

A supplier that does not make the election on the application for a supplier's license may make the election later by completing an election form provided by the Secretary. A supplier that does not make the election may not act as an elective supplier for motor fuel that is removed at a terminal in another state and has this State as its destination state."

SECTION 30. 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. A supplier's license must indicate the category of the supplier. An importer's license

must indicate the category of the importer. 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 31. G.S. 105-449.75 reads as rewritten:

"§ 105-449.75. License holder must notify the Secretary of discontinuance of business.

A license holder that stops engaging in this State in the business for which the license was issued must give the Secretary written notice of the change and must surrender the license to the Secretary. The notice must give the date the change takes effect and, if the license holder has transferred the business to another by sale or otherwise, the date of the transfer and the name and address of the person to whom the business is transferred.

~~If the~~The license holder is a ~~supplier,~~ responsible for all taxes for which the ~~supplier license holder~~ license holder is liable under this Article but are not yet ~~due become due on the date of the change due.~~ If the ~~supplier license holder~~ license holder has transferred the business to another and does not give the notice required by this section, the person to whom the ~~supplier license holder~~ license holder has transferred the business is liable for the amount of any tax the ~~supplier license holder~~ license holder owed the State on the date the business was transferred. The liability of the person to whom the business is transferred is limited to the value of the property acquired from the ~~supplier license holder.~~"

SECTION 32. G.S. 105-449.81 reads as rewritten:

"§ 105-449.81. Excise tax on motor fuel.

An excise tax at the motor fuel rate is imposed on motor fuel that is:

- (1) Removed from a refinery or a terminal and, upon removal, is subject to the federal excise tax imposed by § 4081 of the Code.
- (2) Imported by a system transfer to a refinery or a terminal and, upon importation, is subject to the federal excise tax imposed by § 4081 of the Code.
- (3) Imported by a means of transfer outside the terminal transfer system for sale, use, or storage in this State and would have been subject to the federal excise tax imposed by § 4081 of the Code if it had been removed at a terminal or bulk plant rack in this State instead of imported.
- (3a) Repealed by Session Laws 2007-527, s. 38(a), effective January 1, 2008.
- (3b) Fuel grade ethanol that meets any of the following descriptions:
 - a. Is produced in this State, is removed from the storage facility at the production location, and is not delivered to a terminal in this State.
 - b. Is imported to this State outside the terminal transfer system and is not delivered to a terminal.
 - c. Is removed from a terminal.
- (4) Blended fuel made in this State or imported to this State.
- (5) Transferred within the terminal transfer system ~~and, and is subject,~~ upon transfer, ~~is subject~~ to the federal excise tax imposed by section 4081 of the ~~Code.~~ Code or is transferred to a person who is not licensed under this Article as a supplier."

SECTION 33. G.S. 105-449.82(c) reads as rewritten:

"(c) Terminal Rack Removal. – The excise tax imposed by G.S. 105-449.81(1) on motor fuel removed at a terminal rack in this State is payable by the person that first receives the fuel upon its removal from the terminal. If the motor fuel is removed by an unlicensed distributor, the supplier of the fuel is jointly and severally liable for the tax due on the fuel. If the motor fuel is sold by a person who is not licensed as a supplier, as required by this Article, the terminal operator, the person selling the fuel, and the person removing the fuel are jointly and severally liable for the tax due on the fuel. If the motor fuel removed is not dyed diesel fuel but the shipping document issued for the fuel states that the fuel is dyed diesel fuel, the terminal operator, the supplier, and the person removing the fuel are jointly and severally liable for the tax due on the fuel.

If the motor fuel is removed for export by an unlicensed exporter, the exporter is liable for tax on the fuel at the motor fuel rate and at the rate of the destination state. ~~The liability for the tax at the motor fuel rate applies when the Department assesses the unlicensed exporter for the tax.~~ A supplier who sells motor fuel to a unlicensed exporter is jointly and severally liable for the tax due on the fuel at the motor fuel rate."

SECTION 34. G.S. 105-449.83A reads as rewritten:**"§ 105-449.83A. Liability for tax on fuel grade ethanol.**

The excise tax imposed by ~~G.S. 105-449.81(3a)~~ G.S. 105-449.81(3b) on fuel grade ethanol ~~removed from a storage facility is payable by the fuel alcohol provider. The excise tax imposed by that subdivision on fuel grade ethanol imported to this State is payable by the importer.~~ by the fuel alcohol provider."

SECTION 35. G.S. 105-449.84A reads as rewritten:**"§ 105-449.84A. Liability for tax on behind-the-rack transfers.**

The excise tax imposed by G.S. 105-449.81(5) on motor fuel that is transferred within the terminal transfer system and is subject to the federal excise tax is payable by the supplier of the fuel, the person receiving the fuel, and the terminal operator of the terminal at which the fuel was transferred, all of whom are jointly and severally liable for the tax. The excise tax imposed by that subdivision on motor fuel that is transferred within the terminal transfer system by a person that is not licensed under this Article as a supplier is payable by the person transferring the motor fuel, the person receiving the motor fuel, and the terminal operation of the terminal at which the fuel was transferred, all of whom are jointly and severally liable for the tax."

SECTION 36. G.S. 105-449.85 reads as rewritten:**"§ 105-449.85. Compensating tax on and liability for unaccounted for motor fuel losses at a terminal.**

(a) Tax. – An excise tax at the motor fuel rate is imposed annually on unaccounted for motor fuel losses at a terminal that exceed one-half of one percent (0.5%) of the number of net gallons removed from the terminal during the year by a system transfer or at a terminal rack. To determine if this tax applies, the terminal operator of the terminal must determine the difference between the following:

- (1) The amount of motor fuel in inventory at the terminal at the beginning of the year plus the amount of motor fuel received by the terminal during the year.
- (2) The amount of motor fuel in inventory at the terminal at the end of the year plus the amount of motor fuel removed from the terminal during the year.

(b) Liability. – The terminal operator whose motor fuel is unaccounted for is liable for the tax imposed by this section and is liable for a penalty equal to the amount

of tax payable. Motor fuel received by a terminal operator and not shown on an informational return filed by the terminal operator with the Secretary as having been removed from the terminal is presumed to be unaccounted for ~~for motor fuel.~~ A terminal operator may establish that it can account for motor fuel received at a terminal but not shown on an informational return as having been removed from the terminal if the motor fuel was lost or part of a transmix and is therefore not unaccounted for transmix."

SECTION 37. G.S. 105-449.86(b) reads as rewritten:

"(b) **Liability.** – If the distributor of dyed diesel fuel that is taxable under this section is not liable for the tax imposed by this section, the person that acquires the fuel is liable for the tax. The distributor of dyed diesel fuel that is taxable under this section is liable for the tax imposed by this section in the following circumstances:

- (1) When the person acquiring the dyed diesel fuel has storage facilities for the fuel and is therefore a ~~bulk end-user~~ bulk end-user of the fuel.
- (2) When the person acquired the dyed diesel fuel from a retail outlet of the distributor by using an access card or code indicating that the person's use of the fuel is taxable under this section."

SECTION 38. G.S. 105-449.87(b) reads as rewritten:

"(b) **General Liability.** – The operator of a highway vehicle that uses motor fuel that is taxable under subdivisions (a)(1) through (a)(3) of this section is liable for the tax. If the highway vehicle that uses the fuel is owned by or leased to a motor carrier, the motor carrier is jointly and severally liable for the tax. If the ~~end-seller~~ end-seller of motor fuel taxable under this section knew or had reason to know that the motor fuel would be used for a purpose that is taxable under this section, the ~~end-seller~~ end-seller is jointly and severally liable for the tax. If the Secretary determines that a ~~bulk end-user~~ bulk end-user or retailer used or sold untaxed dyed diesel fuel to operate a highway vehicle when the fuel is dispensed from a storage facility or through a meter marked for nonhighway use, all fuel delivered into that storage facility is presumed to have been used to operate a highway vehicle. An ~~end-seller~~ end-seller of dyed diesel fuel is considered to have known or had reason to know that the fuel would be used for a purpose that is taxable under this section if the ~~end-seller~~ end-seller delivered the fuel into a storage facility that was not marked as required by G.S. 105-449.123."

SECTION 39. G.S. 105-449.89 reads as rewritten:

"§ **105-449.89. Removals by out-of-state bulk end user. Restrictions on removal of motor fuel from terminal.**

(a) **By Bulk End-User.** – An out-of-state ~~bulk end-user~~ bulk end-user may not remove motor fuel from a terminal in this State for use in the state in which the ~~bulk end-user~~ bulk end-user is located unless the ~~bulk end-user~~ bulk end-user is licensed under this Article as an exporter. An out-of-state ~~bulk end-user~~ bulk end-user that is not licensed under this Article may remove motor fuel from a bulk plant in this State.

(b) **To Marine Vessel.** – A supplier may not transfer motor fuel from a terminal to a marine vessel unless the person to whom the supplier transfers the motor fuel is licensed as a supplier."

SECTION 40. G.S. 105-449.91 reads as rewritten:

"§ **105-449.91. Remittance of tax to supplier.**

(a) **Distributor.** – A distributor must remit tax due on motor fuel removed at a terminal rack to the supplier of the fuel. A licensed distributor has the right to defer the remittance of tax to the supplier, as trustee, until the date the trustee must pay the tax to this State or to another state. The time when an unlicensed distributor must remit tax to

a supplier is governed by the terms of the contract between the supplier and the unlicensed distributor.

(b) Exporter. – ~~An~~ A licensed exporter must remit tax due on motor fuel removed at a terminal rack to the supplier of the fuel. The time when ~~an~~ a licensed exporter must remit tax to a supplier is governed by the law of the destination state of the exported motor fuel.

(c) Importer. – A licensed importer must remit tax due on motor fuel removed at a terminal rack of a permissive or an elective supplier to the supplier of the fuel. A licensed importer that removes fuel from a terminal rack of a permissive or an elective supplier has the right to defer the remittance of tax to the supplier until the date the supplier must pay the tax to this State.

(d) General. – A person who removes motor fuel at a terminal rack and is not subject to another subsection in this section must remit tax due on the motor fuel to the supplier of the fuel. The time the person must remit tax to a supplier is governed by the terms of the contract between the supplier and the person. The

The method by which a distributor, a licensed exporter, or a licensed importer person must remit tax to a supplier under this section is governed by the terms of the contract between the supplier and the distributor, exporter, or licensed importer and the supplier. that person. G.S. 105-449.76 governs the cancellation of a license of a distributor, an exporter, and an importer."

SECTION 41. G.S. 105-449.96 reads as rewritten:

"§ 105-449.96. Information required on return filed by supplier.

A return of a supplier must list all of the following information and any other information required by the Secretary:

- (1) The number of gallons of tax-paid motor fuel received by the supplier during the month, sorted by type of ~~fuel, seller, point of origin, destination state, and carrier.~~ fuel.
- (2) The number of gallons of motor fuel removed at a terminal rack during the month from the account of the supplier, sorted by type of ~~fuel, person receiving the fuel, terminal code, and carrier.~~ fuel.
- (3) The number of gallons of motor fuel removed during the month for export, sorted by type of ~~fuel, person receiving the fuel, terminal code, destination state, and carrier.~~ fuel.
- (4) The number of gallons of motor fuel removed during the month at a terminal located in another state for destination to this State, as indicated on the shipping document for the fuel, sorted by type of ~~fuel, person receiving the fuel, terminal code, and carrier.~~ fuel.
- (5) The number of gallons of motor fuel the supplier sold during the month to a governmental unit whose use of fuel is exempt from tax, ~~any of the following,~~ sorted by type of ~~fuel, exempt entity, person receiving the fuel, terminal code, and carrier.~~ fuel.
 - a. ~~A governmental unit whose use of fuel is exempt from the tax.~~
 - b. ~~A licensed distributor or importer that resold the motor fuel to a governmental unit whose use of fuel is exempt from the tax, as indicated by the distributor or importer.~~
 - e. ~~A licensed exporter that resold the motor fuel to a person whose use of fuel is exempt from tax in the destination state, as indicated by the exporter.~~

- (6) The amount of discounts allowed under G.S. 105-449.93(b) on motor fuel sold during the month to licensed distributors or licensed importers.
- (7) The number of gallons of motor fuel the supplier exchanged during the month with another licensed supplier pursuant to a two-party exchange agreement, sorted by type of fuel, ~~licensed supplier receiving the fuel, and terminal code.~~ fuel."

SECTION 42. G.S. 105-449.97(c) reads as rewritten:

"(c) **Percentage Discount.** – A supplier that sells motor fuel directly to an unlicensed distributor or to the ~~bulk end-user, bulk end-user,~~ the retailer, or the user of the fuel may take the same percentage discount on the fuel that a licensed distributor may take under G.S. 105-449.93(b) when making deferred payments of tax to the supplier."

SECTION 43. G.S. 105-449.100 reads as rewritten:

"§ **105-449.100. Terminal operator to file informational return showing changes in amount of motor fuel at the terminal.**

(a) **Requirement.** – A terminal operator must file a monthly informational return with the Secretary that shows the amount of motor fuel received or removed from the terminal during the month. A terminal operator must report all motor fuel removed from an out-of-state terminal that has this State as its destination state.

(b) **Content.** – The return is due on the ~~same date as~~ a monthly return is due under G.S. 105-449.90. The return must contain the following information and any other information required by the Secretary:

- (1) The number of gallons of motor fuel received in inventory at the terminal during the month and each position holder for the ~~fuel.~~ fuel, sorted by type of fuel.
- (2) The number of gallons of motor fuel removed from inventory at the terminal during the month and, for each removal, the position holder for the fuel and the destination state of the ~~fuel.~~ fuel, sorted by type of fuel.
- (3) The number of gallons of motor fuel gained or lost at the terminal during the month.
- (4) The number of gallons of motor fuel in inventory at the beginning of each month and at the end of each month.

(c) **Due Date.** – The return is due on the date a monthly return is due under G.S. 105-449.90."

SECTION 44. G.S. 105-449.101 reads as rewritten:

"§ **105-449.101. Motor fuel transporter to file informational return showing deliveries of motor fuel.**

(a) **Requirement.** – A motor fuel transporter that is required to be licensed under this Article must file a monthly informational return with the Secretary that shows motor fuel transported in this State by the transporter during the month.

(b) **Content.** – The return required by this section must contain the following information and any other information required by the Secretary:

- (1) The name and address of each person from whom the transporter received motor fuel outside the State for delivery in the State, the amount of motor fuel received, the date the motor fuel was received, and the destination state of the fuel.

- (2) The name and address of each person from whom the transporter received motor fuel in the State for delivery outside the State, the amount of motor fuel delivered, the date the motor fuel was delivered, and the destination state of the fuel.
- (3) The name and address of each person from whom the transporter received motor fuel in the State for delivery in the State, the amount of motor fuel received, the date the motor fuel was received, and the destination state of the fuel.

(c) Due Date. – The return required by this section is due on the ~~same date as a~~ monthly return is due under G.S. 105-449.90."

SECTION 45. G.S. 105-449.102 reads as rewritten:

"§ **105-449.102. Distributor to file return showing exports from a bulk plant.**

(a) Return-Requirement. – A distributor that exports motor fuel from a bulk plant located in this State must file a monthly return with the Secretary that shows the exports. ~~The return is due on the same date as a monthly return due under G.S. 105-449.90.~~ The return serves as a claim for refund by the distributor for tax paid to this State on the exported motor fuel.

(b) Content. – The return must contain the following information and any other information required by the Secretary:

- (1) The number of gallons of motor fuel exported during the month.
- (2) The destination state of the motor fuel exported during the month.
- (3) A certification that the distributor has paid to the destination state of the motor fuel exported during the month, or will pay on a timely basis, the amount of tax due that state on the fuel.

(c) Due Date. – The return is due on the date a monthly return is due under G.S. 105-449.90."

SECTION 46. G.S. 105-449.105 reads as rewritten:

"§ **105-449.105. ~~Refunds upon application~~ Monthly refunds for tax paid on exempt fuel, lost fuel, and accidental mixes that result in fuel unsalable unsuitable for highway use.**

(a) Exempt Fuel. – An entity whose use of motor fuel is exempt from tax may obtain a monthly refund of any motor fuel excise tax the entity pays on its motor fuel. A person who sells motor fuel to an entity whose use of motor fuel is exempt from tax may obtain a monthly refund of any motor fuel excise tax the person pays on motor fuel it sells to the entity. A credit card company that issues a credit card to an entity whose use of motor fuel is exempt from tax may obtain a monthly refund of any motor fuel excise tax the company pays on motor fuel the entity purchases using the credit card.

A person may obtain a monthly refund of tax paid by the person on exported fuel, including fuel whose shipping document shows this State as the destination state but was diverted to another state in accordance with the diversion procedures established by the Secretary. An out-of-state bulk end-user is not allowed a refund on fuel exported from a bulk plant unless the bulk end-user is licensed as an exporter.

(b) Lost Fuel. – A supplier, an importer, or a distributor that loses tax-paid motor fuel due to damage to a conveyance transporting the motor fuel, fire, a natural disaster, an act of war, or an accident may obtain a monthly refund for the tax paid on the fuel.

(c) Accidental Mixes. – A person that accidentally combines any of the following may obtain a monthly refund for the amount of tax paid on the fuel:

- (1) Dyed diesel fuel with tax-paid motor fuel.
- (2) Gasoline with diesel fuel.

- (3) Undyed diesel fuel with dyed kerosene.
- (d) Repealed by Session Laws 1998-98, s. 29.
- (e) Refund Amount. – The amount of a refund allowed under this section is the amount of excise tax paid, less the amount of any discount allowed on the fuel under G.S. 105-449.93."

SECTION 47. G.S. 105-449.105A(a) reads as rewritten:

"(a) Refund. – A distributor who sells kerosene to any of the following may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93:

...."

SECTION 48. G.S. 105-449.105A(a)(1) reads as rewritten:

- "(1) The ~~end-user~~end-user of the kerosene, if the distributor dispenses the kerosene into a storage facility of the ~~end-user~~end-user that contains fuel used only for one of the following purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable:
- a. Heating.
 - b. Drying crops.
 - c. A manufacturing process."

SECTION 49. G.S. 105-449.108(a) reads as rewritten:

"(a) Due Dates. – The due dates of applications for refunds are as follows:

Refund Period	Due Date
Annual	April 15 after the end of the year
Quarterly	Last day of the month after the end of the quarter
Monthly	22nd day after the end of the month
Upon Application	Last day of the month after the month in which tax was paid or the event occurred that is the basis of the refund."

SECTION 50. G.S. 105-449.115(b) reads as rewritten:

"(b) Content. – A shipping document issued by a terminal operator or the operator of a bulk plant must contain the following information and any other information required by the Secretary:

- (1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.
- (1a) The type of motor fuel loaded.
- (2) The date the motor fuel was loaded.
- (3) The gross gallons loaded.
- (3a) The motor fuel transporter for the motor fuel.
- (4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.
- (5) If the document is issued by a terminal operator, the document must be machine printed and it must contain the following information:
 - a. The net gallons loaded.
 - b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel."

SECTION 51. G.S. 105-449.117(a) reads as rewritten:

"(a) Violation. – It is unlawful to use dyed diesel fuel or other non-tax-paid fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless that use is allowed under section 4082 of the Code. It is unlawful to use ~~undyed diesel~~ motor fuel or alternative fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless the tax imposed by this ~~Article~~ Article or Article 36D of this Chapter and the tax imposed by Article 3 of Chapter 119 of the General Statutes ~~has~~ have been paid. A person who violates this section is guilty of a Class 1 misdemeanor and is liable for a civil penalty."

SECTION 52. G.S. 105-449.121(b) reads as rewritten:

"(b) Inspection. – The Secretary or a person designated by the Secretary may do any of the following to determine tax liability under this Article:

- (1) Audit ~~a distributor or~~ a person who is required to have or elects to have a license under this Article.
- (2) Audit a distributor, a retailer, a bulk-end user, or a motor fuel user that is not licensed under this Article.
- (3) Examine a tank or other equipment used to make, store, or transport motor fuel, diesel dyes, or diesel markers.
- (4) Take a sample of a product from a vehicle, a tank, or another container in a quantity sufficient to determine the composition of the product.
- (5) Stop a vehicle for the purpose of taking a sample of motor fuel from the vehicle."

SECTION 53. G.S. 105-449.130 reads as rewritten:**"§ 105-449.130. Definitions.**

The following definitions apply in this Article:

- (1) Alternative fuel. – A combustible gas or liquid that can be used to generate power to operate a highway vehicle and that is not subject to tax under Article 36C of this Chapter.
- (1a) ~~Bulk end user.~~ Bulk end-user. – A person who maintains storage facilities for alternative fuel and uses part or all of the stored fuel to operate a highway vehicle.
- (2) Highway. – Defined in ~~G.S. 20-4.01(13)~~ G.S. 105-449.60.
- (3) Highway vehicle. – Defined in G.S. 105-449.60.
- (4) Motor fuel. – Defined in G.S. 105-449.60.
- (5) Motor fuel rate. – Defined in G.S. 105-449.60.
- (6) Provider of alternative fuel. – A person who does one or more of the following:
 - a. Acquires alternative fuel for sale or delivery to a ~~bulk end user~~ bulk end-user or a retailer.
 - b. Maintains storage facilities for alternative fuel, part or all of which the person uses or sells to someone other than a ~~bulk end user~~ bulk end-user or a retailer to operate a highway vehicle.
 - c. Sells alternative fuel and uses part of the fuel acquired for sale to operate a highway vehicle by means of a fuel supply line from the cargo tank of the vehicle to the engine of the vehicle.
 - d. Imports alternative fuel to this State, by a means other than the usual tank or receptacle connected with the engine of a highway vehicle, for use by that person to operate a highway vehicle.

- (7) Retailer. – A person who maintains storage facilities for alternative fuel and who sells the fuel at retail or dispenses the fuel at a retail location to operate a highway vehicle."

SECTION 54. G.S. 105-449.131 reads as rewritten:

"§ **105-449.131. List of persons who must have a license.**

A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in that business:

- (1) A provider of alternative fuel.
- (2) A ~~bulk end-user~~bulk end-user.
- (3) A retailer."

SECTION 55. G.S. 105-449.133(a) reads as rewritten:

"(a) Who Must Have Bond. – The following applicants for a license must file with the Secretary a bond or an irrevocable letter of credit:

- (1) An alternative fuel provider.
- (2) A retailer or a ~~bulk end-user~~bulk end-user that intends to store highway and nonhighway alternative fuel in the same storage facility."

SECTION 56. G.S. 105-449.137(a) reads as rewritten:

"(a) Liability. – A ~~bulk end-user~~bulk end-user or retailer that stores highway and nonhighway alternative fuel in the same storage facility is liable for the tax imposed by this Article. The tax payable by a ~~bulk end-user~~bulk end-user or retailer applies when fuel is withdrawn from the storage facility. The alternative fuel provider that sells or delivers alternative fuel is liable for the tax imposed by this Article on all other alternative fuel."

SECTION 57. G.S. 105-449.138 reads as rewritten:

"§ **105-449.138. Requirements for ~~bulk end-users~~bulk end-users and retailers.**

(a) Informational Return. – A ~~bulk end-user~~bulk end-user and a retailer must file a quarterly informational return with the Secretary. A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return.

The return must give the following information and any other information required by the Secretary:

- (1) The amount of alternative fuel received during the quarter.
- (2) The amount of alternative fuel sold or used during the quarter.

(b) Storage. – A ~~bulk end-user~~bulk end-user or a retailer may store highway and nonhighway alternative fuel in separate storage facilities or in the same storage facility. If highway and nonhighway alternative fuel are stored in separate storage facilities, the facility for the nonhighway fuel must be marked in accordance with the requirements set by G.S. 105-449.123 for dyed diesel storage facilities. If highway and nonhighway alternative fuel are stored in the same storage facility, the storage facility must be equipped with separate metering devices for the highway fuel and the nonhighway fuel. If the Secretary determines that a ~~bulk end-user~~bulk end-user or retailer used or sold alternative fuel to operate a highway vehicle when the fuel was dispensed from a storage facility or through a meter marked for nonhighway use, all fuel delivered into that storage facility is presumed to have been used to operate a highway vehicle."

SECTION 58. G.S. 105-449.139(c) reads as rewritten:

"(c) Lists. – The Secretary must give a list of licensed alternative fuel providers to each licensed ~~bulk end-user~~bulk end-user and licensed retailer. The Secretary must also give a list of licensed ~~bulk end-users~~bulk end-users and licensed retailers to each

licensed alternative fuel provider. A list must state the name, account number, and business address of each license holder on the list. The Secretary must send an annual update of a list to each license holder, as appropriate."

SECTION 59. G.S. 119-15 reads as rewritten:

"§ 119-15. **Definitions that apply to Article.**

The following definitions apply in this Article:

- (1) Alternative fuel. – Defined in G.S. 105-449.130.
- (2) Aviation gasoline. – Defined in G.S. 105-449.60.
- ~~(1a)~~(3) Dyed diesel fuel. – Defined in G.S. 105-449.60.
- ~~(1b)~~(4) Dyed diesel fuel distributor. – A person who acquires dyed diesel fuel from either of the following:
 - a. A person who is not required to be licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and who maintains storage facilities for dyed diesel fuel to be used for nonhighway purposes.
 - b. Another dyed diesel fuel distributor.
- ~~(2)~~(5) Gasoline. – Defined in G.S. 105-449.60.
- (6) Jet fuel. – Defined in G.S. 105-449.60.
- ~~(3)~~(7) Kerosene. – Defined in G.S. 105-449.60. ~~Petroleum oil that is free from water, glue, and suspended matter and that meets the specifications and standards adopted by the Gasoline and Oil Inspection Board.~~
- ~~(3a)~~(8) Kerosene distributor. –A person who acquires kerosene from any of the following for subsequent sale:
 - a. A supplier licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes.
 - b. A kerosene supplier.
 - c. Another kerosene distributor.
- ~~(3b)~~(9) Kerosene supplier. – Either of the following:
 - a. A person who supplies both kerosene and motor fuel and, consequently, is required to be licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes.
 - b. A person who is not required to be licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes and who maintains storage facilities for kerosene to be used to fuel an airplane.
- ~~(4)~~(10) Motor fuel. – Defined in G.S. 105-449.60.
- ~~(5)~~(11) Person. – Defined in G.S. 105-229.90.
- ~~(6)~~(12) Terminal. – Defined in G.S. 105-449.60.
- ~~(7)~~(13) Terminal operator. – Defined in G.S. 105-449.60."

SECTION 60. G.S. 119-18(a) reads as rewritten:

"(a) Tax. – An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is levied upon all of the fuel listed in this subsection regardless of whether the fuel is exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of the General Statutes. The inspection tax on motor fuel is due and payable to the Secretary of Revenue ~~at the same time that~~ on the date the per gallon excise tax on motor fuel is due and payable under Article 36C of Chapter 105 of the General Statutes. The inspection tax on alternative fuel is due and payable to the Secretary of Revenue ~~at the same time that~~ on the date the excise tax on alternative fuel is due and payable under

Article 36D of Chapter 105 of the General Statutes. The inspection tax on kerosene is payable monthly to the Secretary by a supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and by a kerosene supplier. A monthly report is due on the ~~same date as~~ a monthly return is due under G.S. 105-449.90 and applies to kerosene sold during the preceding month by a supplier licensed under that Part and to kerosene received during the preceding month by a kerosene supplier. A kerosene terminal operator must file a return in accordance with the provisions of G.S. 105-449.90. The inspection tax on jet fuel and aviation gasoline is payable as specified by the Secretary of Revenue.

- (1) Motor fuel.
- (2) Alternative fuel used to operate a highway vehicle.
- (3) Kerosene.
- (4) Jet fuel.
- (5) Aviation gasoline."

COMBINED MV REGISTRATION AND PROPERTY TAX SYSTEM CHANGES

SECTION 61. G.S. 105-330.2(c) is repealed.

SECTION 62. G.S. 105-330.3 reads as rewritten:

"§ 105-330.3. Assessor's duty to list classified motor vehicles; application for exempt status.

- (a) (1) Registered Vehicles. The assessor shall list, appraise, and assess all taxable classified motor vehicles for county, municipal, and special district taxes each year in the name of the record owner as of the day on which the current vehicle registration is renewed or the day on which a new registration is applied for. The owner of a classified motor vehicle listed pursuant to this subdivision need not list the vehicle as provided in G.S. 105-306; G.S. 105-312 does not apply to classified motor vehicles listed pursuant to this subdivision.
- (2) Unregistered Vehicles. The owner of a classified motor vehicle who does not register the vehicle or does not renew the registration of the vehicle on or before the expiration date of the current registration shall list the vehicle for taxes by filing an abstract with the assessor of the county in which the vehicle is located on or before January 31 following the date the unregistered vehicle is acquired or, in the case of a registration that is not renewed, January 31 following the date the registration expires, and on or before January 31 of each succeeding year that the vehicle is unregistered. If a classified motor vehicle listed pursuant to this section is registered during the calendar year in which it was listed, it shall be taxed for the fiscal year that opens in the calendar year of listing as an unregistered vehicle. A vehicle required to be listed pursuant to this subdivision that is not listed by January 31 shall be subject to discovery pursuant to ~~G.S. 105-312.~~G.S. 105-312, unless the vehicle has been taxed as a registered vehicle for the current year.

(b) The owner of a classified motor vehicle who claims an exemption or exclusion from tax under this Subchapter has the burden of establishing that the vehicle is entitled to the exemption or exclusion. The owner may establish prima facie entitlement to exemption or exclusion of the classified motor vehicle by filing an application for exempt status with the assessor. When an approved application is on file,

the assessor shall omit from the tax records classified motor vehicles described in the application. An application is not required for vehicles qualifying for exemptions or exclusions listed in G.S. 105-282.1(a)(1).

(c) The owner of a classified motor vehicle that has been omitted from the tax records as provided in subsection (b) shall report to the assessor any classified motor vehicle registered in the owner's name or owned by him that does not qualify for exemption or exclusion for the current year. This report shall be made within 30 days after the renewal of registration or initial registration of the vehicle or, for an unregistered vehicle, on or before January 31 of the year in which the vehicle is required to be listed by subdivision (a)(2). A classified motor vehicle that does not qualify for exemption or exclusion but has been omitted from the tax records as provided in subsection (b) is subject to discovery under the provisions of G.S. 105-312, except that in lieu of the penalties prescribed by G.S. 105-312(h) there shall be assessed a penalty of one hundred dollars (\$100.00) for each registration period that elapsed before the disqualification was discovered.

(d) The provisions of G.S. 105-282.1 do not apply to classified motor vehicles."

SECTION 63. G.S. 105-330.10 reads as reads as rewritten:

"§ **105-330.10.** (Effective until January 1, 2010) Combined Motor Vehicle and Registration Account~~Disposition of interest.~~

~~Sixty percent (60%) of the first month's interest collected on unpaid taxes pursuant to G.S. 105-330.4 shall be transferred on a monthly basis to the Combined Motor Vehicle and Registration Account created within the Treasurer's Office. Interest generated by the funds in the Combined Motor Vehicle and Registration Account shall be credited to the Account. The Office of State Budget and Management shall direct the Treasurer to distribute the funds in the Account to the Division of Motor Vehicles for the purpose of developing and implementing an integrated computer system within the Division of Motor Vehicles that would allow for the combined assessment, billing, and collection of property taxes on motor vehicles and the issuance of registration plates. Funds in the Account shall not be transferred by the Office of State Budget and Management and appropriated by the General Assembly until the Department of Transportation and the North Carolina Association of County Commissioners reach agreement on a project plan for the integrated system. The Treasurer shall report to the Revenue Laws Study Committee semiannually with the first report due by April 30, 2006. The report shall contain a detailed description of the amount of moneys transferred to the Account and distributed from the Account. Any funds remaining in the Account after the integrated computer system has been certified to be in operation shall be distributed to the local governments on a pro rata basis determined by the first month's interest collected on the unpaid taxes on classified motor vehicles and paid into the Account by each local government.~~

(a) Account. – The Combined Motor Vehicle and Registration Account is established as a nonreverting account within the Department of State Treasurer. A taxing unit must remit to the Department of State Treasurer for deposit into the Account sixty percent (60%) of the first month's interest collected under G.S. 105-330.4 on unpaid property taxes on classified and registered motor vehicles. The taxing unit must make the remittance on a monthly basis. Interest earned by the Account accrues to the Account.

(b) Use. – Funds in the Account may be used only to develop and implement an integrated computer system within the Division of Motor Vehicles of the Department of Transportation that provides the functions needed for the assessment, billing, and

collection of both the property taxes and the vehicle registration fees due on motor vehicles. The funds may not be transferred to the Division and expended for this purpose until the Department of Transportation and the North Carolina Association of County Commissioners agree on the project plan for the integrated system and the General Assembly appropriates the funds to the Division. If funds remain in the Account after the operation of the integrated system is certified, the remaining funds must be distributed to local governments on a pro rata basis determined on the amount of revenue each local government transferred to the Account.

(c) Report. – The Treasurer must make an annual report on the Account to the Revenue Laws Study Committee. The report must be submitted by November 1 of each year and must state the total amount of revenue transferred by local governments to the Account during the preceding fiscal year, the amount expended from the Account during the preceding fiscal year, and any other information requested by the Committee."

SECTION 64. Article 22A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-330.11. Memorandum of understanding.

The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles are directed to enter into a memorandum of understanding concerning the administration of this Article. The memorandum of understanding must include the following:

- (1) A procedure for the administration of the listing, appraisal, and assessment of classified motor vehicles.
- (2) Information concerning vehicle identification, identification of a vehicle owner by name and address, and other information that will be required on a motor vehicle registration form to implement the tax listing and collection provisions of this Article.
- (3) A procedure for the business practices, accounting, and costs of carrying out the integrated computer system for registration renewal and property tax collection for motor vehicles once the system has been certified to be in operation by the Department of Revenue and the Department of Transportation. The Departments must consult with the North Carolina Association of County Commissioners, acting on behalf of the counties, and the North Carolina League of Municipalities, acting on behalf of the municipalities, in developing the procedures under this subdivision and obtain their signed endorsements before any part of this procedure is implemented."

SECTION 65. Section 13 of S.L. 2005-294, as amended by Section 31.5 of S.L. 2006-259 and Section 22(c) of S.L. 2007-527, reads as rewritten:

"SECTION 13. Sections 4 and 8 of this act become effective January 1, 2006. Sections 1, 2, 3, 5, 6, 7, 10 and 11 of this act become effective ~~July 1, 2010~~, July 1, 2011, or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. Sections 12 and 13 of this act are effective when they become law. Nothing in this act shall require the General Assembly to appropriate funds to implement it for the biennium ending June 30, 2007."

SECTION 66. Section 22(d) of S.L. 2007-527 reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~January 1, 2010~~ January 1, 2011, or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

OTHER CHANGES

SECTION 67.(a) G.S. 58-5-25(a)(2) is repealed.

SECTION 67.(b) This section is effective for taxable years beginning on or after January 1, 2008.

SECTION 68.(a) G.S. 105-113.112 reads as rewritten:

"§ **105-113.112. Confidentiality of information.**

Information obtained by the Department in the course of administering the tax imposed by this Article, including information on whether the Department has issued a revenue stamp to a person, is confidential tax information and is subject to the following restrictions on disclosure:

- (1) G.S. 105-259 prohibits the disclosure of the information, except in the limited circumstances provided in that statute.
- (2) The information may not be used as evidence, as defined in G.S. 15A-971, in a criminal prosecution for an offense other than an offense under this Article or under Article 9 of this Chapter. Under this prohibition, no officer, employee, or agent of the Department may testify about the information in a criminal prosecution for an offense other than an offense under this Article or under Article 9 of this Chapter. This subdivision implements the protections against double jeopardy and self-incrimination set out in Amendment V of the United States Constitution and the restrictions in it apply regardless of whether information may be disclosed under G.S. 105-259. This subdivision does not apply to information obtained from a source other than an employee, officer, or agent of the Department. This subdivision does not prohibit testimony by an officer, employee, or agent of the Department concerning an offense committed against that individual in the course of administering this Article. An officer, employee, or agent of the Department who provides evidence or testifies in violation of this subdivision is guilty of a Class 1 misdemeanor."

SECTION 68.(b) This section becomes effective December 1, 2008, and applies to offenses committed on or after that date.

SECTION 69. G.S. 105-129.2A(a4) reads as rewritten:

"(a4) Sunset for Taxpayers That Sign a Letter of Commitment. – Notwithstanding subsection (a) of this section, in the case of a taxpayer that signs a letter of commitment with the Department of Commerce on or before December 31, 2006, stating the taxpayer's intent to create new jobs or make new investments with respect to machinery and equipment, central office or aircraft facility property, or substantial investments in other real property at a specific site in this State, this Article is repealed effective for business activities that occur on or after January 1, 2008. If a taxpayer elects to take any credit under the provisions of this subsection for activities occurring in the 2007 taxable year, the taxpayer may not take any credit under Article ~~3I~~ 3J of this Chapter with respect to the same establishment for activities occurring in the 2007 taxable year."

SECTION 70. G.S. 105-129.16H(a) reads as rewritten:

"(a) Credit. – A taxpayer who donates money to a tax-exempt nonprofit organization for the purpose of providing funds for the organization to construct, purchase, or lease renewable energy property is allowed a credit under this section if the nonprofit organization uses the donation for its intended purpose. A tax-exempt nonprofit organization is an organization that is exempt from tax under section 501(c)(3) of the Code.

The amount of the credit allowed in this section is the taxpayer's share of the credit the nonprofit organization could claim under G.S. 105-129.16A if the nonprofit organization were subject to tax. The taxpayer's share of the credit is calculated by dividing the taxpayer's donation by the cost of the renewable energy property constructed, purchased, or leased by the nonprofit organization and placed in service during the taxable year and then multiplying this percentage by the amount of the credit the nonprofit organization could claim if it were subject to tax. A taxpayer must take the credit allowed by this section ~~in the year~~ for the taxable year in which the property is placed in service. The installment requirements in G.S. 105-129.16A for nonresidential property do not apply to the credit allowed in this section."

SECTION 71. G.S. 105-251 reads as rewritten:

"§ **105-251. ~~Type of information a taxpayer must provide.~~ Information required of taxpayer and corrections based on information.**

(a) Scope of Information. – A taxpayer must give information to the Secretary when the Secretary requests the information. The Secretary may request a taxpayer to provide only the following kinds of information on a return, a report, or otherwise:

- (1) Information that identifies the taxpayer.
- (2) Information needed to determine the liability of the taxpayer for a tax.
- (3) Information needed to determine whether an item is subject to a tax.
- (4) Information that enables the Secretary to collect a tax.
- (5) Other information the law requires a taxpayer to provide or the Secretary needs to perform a duty a law requires the Secretary to perform.

(b) Correction of Liability. – When a taxpayer provides information to the Secretary within the statute of limitations and the information establishes that an assessment against the taxpayer is incorrect or that the taxpayer is allowed a refund, the Secretary must adjust the assessment or issue the refund in accordance with the information. This action is a correction of an error by the Department or by the taxpayer and is not part of the process for the administrative or judicial review of a proposed assessment or a claim for refund."

SECTION 72. G.S. 105-275(29) reads as rewritten:

"(29) Real property and easements wholly and exclusively held and used for nonprofit historic preservation purposes by a nonprofit historical association or institution, including real property owned by a nonprofit corporation organized for historic preservation purposes and held by its owner exclusively for sale under an historic preservation agreement to be prepared and recorded ~~recorded~~, at the time of sale, under the provisions of the Conservation and Historic Preservation Agreements Act, Article 4, Chapter 121 of the General Statutes of North Carolina."

SECTION 73.(a) Part 2D of Article 10 of Chapter 143B of the General Statutes is repealed.

SECTION 73.(b) G.S. 66-58(b)(21) is repealed.

SECTION 73.(c) G.S. 120-123(72) is repealed.

SECTION 73.(d) G.S. 126-5(c1)(20) is repealed.

SECTION 73.(e) G.S. 143B-437.45 reads as rewritten:

"§ 143B-437.45. Definitions.

The following definitions apply in this Part:

- ...
- (5) ~~Regional Partnerships. — As defined in G.S. 143B-437.21(6)-partnership. — Any of the following:~~
- a. The Western North Carolina Regional Economic Development Commission created in G.S. 158-8.1.
 - b. The North Carolina's Northeast Commission created in G.S. 158-8.2.
 - c. The Southeastern North Carolina Regional Economic Development Commission created in G.S. 158-8.3.
 - d. The North Carolina's Eastern Region Development Commission created in G.S. 158-35.
 - e. The Charlotte Regional Partnership, Inc.
 - f. The Research Triangle Regional Partnership.
 - g. The Piedmont Triad Partnership.
-"

SECTION 74.(a) Article 43 of Chapter 105 of the General Statutes, as enacted by Section 1 of S.L. 1997-417, is amended by adding a new section to read:

"§ 105-506.1. Exemption of food.

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 or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a)."

SECTION 74.(b) G.S. 105-509, as enacted by Section 1 of S.L. 1997-417, reads as rewritten:

"§ 105-509. Levy and collection of sales and use tax.

If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of commissioners of the 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. Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean 'Article 43 of Chapter 105 of the General Statutes'.

~~A tax levied under this Article does not apply to the sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51."~~

SECTION 75. G.S. 105-538 reads as rewritten:

"§ 105-538. 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. G.S. 105-468.1 is an administrative provision that applies to this Article. 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. The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county. Notwithstanding

the provisions of G.S. ~~105-467(e)~~, 105-466(c), during the 2008 calendar year a tax levied under this Article may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 60 days' advance notice of the new tax levy."

SECTION 76.(a) Part 1 of Article 16 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-304.4. Reduction in law enforcement service district after annexation.

When any portion of a county law enforcement service district organized under G.S. 153A-301(10) is annexed by a municipality, and the effective date of the annexation is a date other than a date in the month of June, the amount of the county law enforcement service district tax levied on each parcel of real property in the district for the fiscal year in which municipal taxes are prorated under G.S. 160A-58.10 shall be multiplied by the following fraction: the denominator shall be 12 and the numerator shall be the number of full calendar months remaining in the fiscal year following the day on which the annexation becomes effective. For each parcel of real property in the portion of the district that is annexed, the product of the multiplication is the amount of the law enforcement service district tax to be refunded if the taxes have been paid, or released if the taxes have not been paid. The finance officer of the county shall obtain from the assessor or tax collector of the county a list of the owners of the real property on which law enforcement service district taxes were levied in the territory annexed, and the county shall pay the refund amount, if applicable, to the owner as shown on the records of the tax assessor of the real property as of the January 1 immediately preceding the date of the refund. Refund payments shall come from any funds not otherwise restricted by law."

SECTION 76.(b) G.S. 153A-304.1(c) reads as rewritten:

"(c) When all or part of a county service district is annexed, and the effective date of the annexation is a date other than a date in the month of June, the amount of the county service district tax levied on property in the district for the fiscal year in which municipal taxes are prorated under G.S. 160A-58.10 shall be multiplied by the following fraction: the denominator shall be 12 and the numerator shall be the number of full calendar months remaining in the fiscal year following the day on which the annexation becomes effective. For each owner, the product of the multiplication is the prorated fire protection payment. The finance officer of the city shall obtain from the ~~tax supervisor~~ assessor or tax collector of the county where the annexed territory was located a list of the owners of property on which fire protection district taxes were levied in the territory being annexed, and the city shall, no later than 90 days after the effective date of the annexation, pay the amount of the prorated fire protection district payment to the owners of that property. Such payments shall come from any funds not otherwise restricted by law."

SECTION 76.(c) G.S. 153A-301(10) reads as rewritten:

"(10) Law enforcement if all of the following apply:

- a. The population of the county is over 500,000 according to the most recent federal decennial census.
- b. The county has an interlocal agreement with a city in the county under which the city provides law enforcement services in the entire unincorporated area of the county.
- e. ~~The county will pay to the city the following percentages of the city-county police department budget if there are no significant changes to the city's statutory annexation authority:~~

1. ~~9.60% for fiscal years 1995-96 and 1996-97.~~
2. ~~7.60% for fiscal years 1997-98 and 1998-99.~~
3. ~~5.60% for fiscal years 1999-2000 and 2000-2001.~~
4. ~~3.60% for fiscal years 2001-02 and 2002-03.~~
5. ~~1.60% for fiscal years 2003-04 and 2004-05.~~

~~Provided, if the difference between the ratio of the population in the unincorporated area to the total population served by the city-county police department and the rate for the current year as stated above is greater than fifteen percent (15%), the county's agreement to pay such percentages can be amended to reflect that difference."~~

SECTION 76.(d) Subsection (a) of this section applies to annexations in fiscal year 2006-2007 or a subsequent fiscal year. The remainder of this section is effective when it becomes law.

SECTION 77. G.S. 158-12.1 reads as rewritten:

"§ 158-12.1. **Commission funds secured.**

The Western North Carolina Regional Economic Development Commission, Research Triangle Regional ~~Commission, Partnership,~~ Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, North Carolina's Northeast Commission, North Carolina's Eastern Region Development Commission, and Carolinas Partnership, Inc., may deposit money at interest in any bank, savings and loan association, or trust company in this State in the form of savings accounts, certificates of deposit, or such other forms of time deposits as may be approved for county governments. Investment deposits and money deposited in an official depository or deposited at interest shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this section, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository. This section applies to the regional economic development commissions listed in this section only for as long as the commissions are receiving State funds."

SECTION 78. An employee of the State may provide tax information about tax credits claimed under former Article 3A or current Article 3J of Chapter 105 of the General Statutes to the University of North Carolina at Chapel Hill (University) to enable the University to compile statistical information to fulfill a contractual obligation between the University and the North Carolina General Assembly, on behalf of the Joint Select Committee on Economic Development Incentives established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives on March 2, 2007. In lieu of extracting the needed information from these tax returns, the State may provide a copy of the returns to the University so the University can extract the information. The disclosure allowed by this section is an exception to G.S. 105-259. A person to whom a disclosure is made under this section is subject to the same confidentiality requirements as an employee of the State who has access to tax information.

EFFECTIVE DATES

SECTION 79. Sections 16 through 60 of this act become effective January 1, 2009. Except as otherwise provided, the remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 8:13 p.m. on the 28th day of July, 2008.

Session Law 2008-135**H.B. 1076**

AN ACT TO WAIVE FEES AS WELL AS TUITION FOR CERTAIN PERSONS ATTENDING CLASSES AT A CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH CAROLINA OR AT A COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Chapter 115B of the General Statutes reads as rewritten:

**"Chapter 115B.
Tuition and Fee Waivers."**

SECTION 2. Chapter 115B of the General Statutes is amended by adding a new section to read:

"§ 115B-2A. Fee waiver authorized.

The constituent institutions of The University of North Carolina and the community colleges as defined in G.S. 115D-2(2) shall permit any person to attend classes for up to six hours of credit or noncredit purposes each academic semester without the required payment of fees, excluding textbooks, the community colleges computer use and technology fee, and community college course specific fees, if the person has attained the age of 65 and qualifies as a legal resident of North Carolina and as a resident for tuition purposes in accordance with definitions of residency that may from time to time be adopted by the Board of Governors and published in the residency manual of the Board of Governors."

SECTION 3. This act becomes effective August 1, 2008, and applies to classes for any academic semester beginning on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 8:15 p.m. on the 28th day of July, 2008.

Session Law 2008-136**H.B. 1134**

AN ACT TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT BY ENCOURAGING COUNTIES TO DEVELOP PLANS THAT PROVIDE FOR THE DECONSTRUCTION OF ABANDONED MANUFACTURED HOMES AND THE REMOVAL OF REUSABLE OR RECYCLABLE COMPONENTS, BY PROVIDING FOR THE ABATEMENT OF ABANDONED MANUFACTURED HOMES THAT ARE DETERMINED TO BE A NUISANCE, AND TO DESIGNATE THAT A PORTION OF THE SOLID WASTE MANAGEMENT TRUST FUND BE USED TO FUND THE DECONSTRUCTION AND REMOVAL OF ABANDONED MANUFACTURED HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2F. Management of Abandoned Manufactured Homes."§ 130A-309.99A. Purpose.

The purpose of this Part is to provide units of local government with the authority, funding, and guidance needed to provide for the efficient and proper identification, deconstruction, recycling, and disposal of abandoned manufactured homes in this State.

"§ 130A-309.99B. Definitions.

The following definitions apply to this Part:

- (1) 'Abandoned manufactured home' means a manufactured home or mobile classroom that is both:
 - a. Vacant or in need of extensive repair.
 - b. An unreasonable danger to public health, safety, welfare, or the environment.
- (2) 'Intact' when used in connection with 'abandoned manufactured home' means an abandoned manufactured home from which the wheels and axles, white goods, and recyclable materials have not been removed.
- (3) 'Manufactured home' is defined in G.S. 105-164.3.
- (4) 'Responsible party' means any person or entity that possesses an ownership interest in an abandoned manufactured home.

"§ 130A-309.99C. Management of abandoned manufactured homes.

(a) Plan. – Each county shall consider whether to implement a program for the management of abandoned manufactured homes. If, after consideration, the county decides not to implement a program, the county must state in the comprehensive solid waste management plan that it is required to develop under G.S. 130A-309.09A(b) that the county considered whether to implement a program for the management of abandoned manufactured homes and decided not to do so. A county may, at any time, reconsider its decision not to implement a program for the management of abandoned manufactured homes. If the county decides to implement a program, the county shall develop a written plan for the management of abandoned manufactured homes and include the plan as a component of the comprehensive solid waste management plan it is required to develop under G.S. 130A-309.09A(b). At a minimum, the plan shall include:

- (1) A method by which the county proposes to identify abandoned manufactured homes in the county, including, without limitation, a process by which manufactured homeowners or other responsible parties may request designation of their home as an abandoned manufactured home.
- (2) A plan for the deconstruction of these abandoned manufactured homes.
- (3) A plan for the removal of the deconstructed components, including mercury switches from thermostats, for reuse or recycling, as appropriate.
- (4) A plan for the proper disposal of abandoned manufactured homes that are not deconstructed under subdivision (2) of this subsection.

(b) Authority to Contract. – A county may contract with another unit of local government or a private entity in accordance with Article 15 of Chapter 153A of the General Statutes to provide for the management of abandoned manufactured homes within the county and the implementation of its plan under subsection (a) of this section.

(c) Fee Authority. – A unit of local government or a party that contracted with the county under subsection (b) of this section may charge a disposal fee for the disposal of any abandoned manufactured home at a landfill pursuant to this Part.

(d) An intact abandoned manufactured home shall not be disposed of in a landfill.

"§ 130A-309.99D. Process for the disposal of abandoned manufactured homes.

(a) If a county adopts and implements a plan for the management of abandoned manufactured homes pursuant to this Part, the county shall notify the responsible party and the owner of the property on whose land the abandoned manufactured home is located for each identified abandoned manufactured home in the county that the abandoned manufactured home must be properly disposed of by the responsible party within 90 days. The notice shall be in writing and shall be served on the person as provided by Rule 4(j) of the Rules of Civil Procedure, G.S. 1A-1. The notice shall disclose the basis for the action and advise that a hearing will be held before a designated public officer at a place within the county in which the manufactured home is located not less than 10 days nor more than 30 days after the serving of the notice; that the responsible party shall be given the right to file an answer to the order and to appear in person, or otherwise, and give testimony at the place and time fixed in the notice; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(b) If, after notice and hearing, the public officer determines that the manufactured home under consideration is abandoned, the officer shall state in writing the officer's findings of fact in support of that determination, and the county shall order the responsible party to dispose of the abandoned manufactured home within 90 days of the expiration of this period. If the responsible party fails to comply with this order, the county shall take any action it deems reasonably necessary to dispose of the abandoned manufactured home, including entering the property where the abandoned manufactured home is located and arranging to have the abandoned manufactured home deconstructed and disposed of in a manner consistent with the plan developed under G.S. 130A-309.99C(a). If the responsible party is not the owner of the property on which the abandoned manufactured home is located, the county may order the property owner to permit entry onto the owner's property by an appropriate party to permit the removal and proper disposal of the abandoned manufactured home.

(c) When a county removes, deconstructs, and disposes of an abandoned manufactured home pursuant to this section, whether directly or through a party that contracted with the county, the responsible party shall be liable for the actual costs incurred by the county, directly or indirectly, for its abatement activities and its administrative and legal expenses incurred, less the amount of grants for reimbursement received by the county under G.S. 130A-309.99E for the disposal activities for that manufactured home. The county may initiate a civil action to recover these unpaid costs from the responsible party. Nonpayment of any portion of the actual costs incurred by the county shall result in the imposition of a lien on any real property in the county owned by the responsible party.

(d) This section does not apply to any of the following:

- (1) A retail business premises where manufactured homes are sold.
- (2) A solid waste disposal facility where no more than 10 manufactured homes are stored at one time if all of the manufactured homes received for storage are deconstructed or removed from the facility within one year after receipt.

(e) This section does not change the existing authority of a county or a municipality to enforce any existing laws or of any person to abate a nuisance.

"§ 130A-309.99E. Grants to local governments.

(a) The Department shall use funds from the Solid Waste Trust Fund established by G.S. 130A-309.12 to:

- (1) Provide grants to counties to reimburse their expenses for activities under this Part.
- (2) Provide technical assistance and support to counties to achieve the purposes of this Part.
- (3) Implement this Part, including costs associated with staffing, training, submitting reports, and fulfilling program goals.

(b) Each county that requests a reimbursement grant from the Department shall also submit to the Department a proposed budget specifying in detail the expenses it expects to incur in a specified time period in connection with the activities under this Part. The Department shall review each submitted budget and make modifications, if necessary, in light of the availability of funds, the county's capacity to effectively and efficiently manage the abatement of abandoned manufactured homes, and any other factors that the Department reasonably determines are relevant. When the Department and a county agree on the amount of the county's budget under this subsection, the Department and the county shall execute an agreement that reflects this amount and that specifies the time period covered by the agreement, and the Department shall reserve funds for the county in the amount necessary to reimburse allowable costs. The amount of a reimbursement grant shall be calculated in accordance with subsections (c) and (d) of this section. A county shall not receive a reimbursement grant unless it has filed all the annual reports it is required to submit under G.S. 130A-309.99G.

(c) Reimbursement grants shall be made in accordance with the terms of the grant agreement developed pursuant to subsection (b) of this section, but in any event, all reimbursements shall be calculated on a per-unit basis and based on the actual cost of such activities, not to exceed one thousand dollars (\$1,000) for each unit. For a county designated as a development tier one or two area pursuant to G.S. 143B-437.08 where the costs associated with the disposition of an abandoned manufactured home in a manner consistent with this Part exceed one thousand dollars (\$1,000) per unit, a county may request a supplemental grant in an amount equal to fifty percent (50%) of the amount in excess of one thousand dollars (\$1,000). The Department shall consider the efficiency and effectiveness of the county program in making the supplemental grant, and the county participation must be a cash match.

(d) A county shall use reimbursement grant funds only for operating expenses that are directly related to the management of abandoned manufactured homes. If an operating expense is partially related to the management of abandoned manufactured homes, a county may use the reimbursement grant funds to finance the percentage of the cost that equals the percentage of the expense that is directly related to the management of abandoned manufactured homes.

"§ 130A-309.99F. Authority to adopt ordinances.

A county, or a unit of local government that is delegated authority to do so by the county, may adopt ordinances it deems necessary in order to implement this Part.

"§ 130A-309.99G. Reporting on the management of abandoned manufactured homes.

(a) On or before 1 August of each year, any county that receives a reimbursement grant under G.S. 130A-309.99E shall submit a report to the Department that includes all of the following information:

- (1) The number of units and approximate tonnage of abandoned manufactured homes removed, deconstructed, recycled, and disposed of during the previous fiscal year.
- (2) A detailed statement of the county's abandoned manufactured homes account receipts and disbursements during the previous fiscal year that sets out the source of all receipts and the purpose of all disbursements.
- (3) The obligated and unobligated balances in the county's abandoned manufactured homes account at the end of the fiscal year.
- (4) An assessment of the county's progress in removing, deconstructing, recycling, and disposing of abandoned manufactured homes consistent with this Part.

(b) The Department shall include in its annual report to the Environmental Review Commission under G.S. 130A-309.06(c) a description of the management of abandoned manufactured homes in the State for the fiscal year ending the preceding 30 June. The description of the management of abandoned manufactured homes shall include all of the following information:

- (1) The cost to each county of managing its abandoned manufactured home program during the reporting period.
- (2) The beginning and ending balances of the Solid Waste Management Trust Fund for the reporting period and a list of grants made from the Fund for the period, itemized by county.
- (3) A summary of the information contained in the reports submitted by counties pursuant to subsection (a) of this section.
- (4) Any other information the Department considers helpful in understanding the problem of managing abandoned manufactured homes in the State.

"§ 130A-309.99H. Effect on local ordinances.

This Part shall not be construed to limit the authority of counties under Article 18 of Chapter 153A of the General Statutes or the authority of cities under Article 19 of Chapter 160A of the General Statutes."

SECTION 2. G.S. 130A-309.06(c) is amended by adding a new subdivision to read:

- "(14) A description of the activities related to the management of abandoned manufactured homes in the State in accordance with G.S. 130A-309.99G, the beginning and ending balances in the Solid Waste Management Trust Fund for the reporting period and the amount of funds used, itemized by county, for grants made under Part 2F of Article 9 of Chapter 130A of the General Statutes."

SECTION 3. G.S. 130A-309.09A(b) is amended by adding a new subdivision to read:

- "(9) Include as a component a written plan for the management of abandoned manufactured homes as required under G.S. 130A-309.99C(a)."

SECTION 4. The Department of Environment and Natural Resources shall annually use up to one million dollars (\$1,000,000) from the Solid Waste Management

Trust Fund established by G.S. 130A-309.12 in order to fund the cleanup of abandoned mobile homes as provided in G.S. 130A-309.99E.

SECTION 5. A county designated as a development tier one or two area pursuant to G.S. 143B-437.08 may, upon resolution by the Board of Commissioners of their intent to (i) develop a plan for the management of abandoned manufactured homes and (ii) implement the plan once developed, request a planning grant of up to two thousand five hundred dollars (\$2,500) from the Solid Waste Management Trust Fund. These funds shall be used by the county to prepare a plan as provided in G.S. 130A-309.99C, as enacted by Section 1 of this act, and to identify abandoned manufactured homes.

SECTION 6. This act becomes effective 1 July 2009 and expires 1 October 2023.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 8:18 p.m. on the 28th day of July, 2008.

Session Law 2008-137

S.B. 1046

AN ACT TO STUDY THE IMPACTS ON THE STATE OF NORTH CAROLINA OF THE POTENTIAL ISSUANCE OF A FIFTY-YEAR LICENSE BY THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE OPERATION OF THE YADKIN HYDROELECTRIC PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. The Environmental Review Commission ("Commission") shall study the impacts on the State of the potential issuance of a new fifty-year license by the Federal Energy Regulatory Commission ("FERC") to Alcoa Power Generating, Inc., ("APGI") in the FERC relicensing proceeding known as FERC Project No. P-2197. The Commission is authorized to consider and develop proposals regarding all of the following issues:

- (1) The socioeconomic impacts of APGI's decision to discontinue its job-producing manufacturing activities at its Badin facility that relied on the use of low-cost power from the Yadkin Hydroelectric Project.
- (2) Assurance of an adequate, clean future water supply for the region.
- (3) The allocation of water for non-power uses from the Yadkin Hydroelectric Project.

SECTION 2. The Commission shall submit a report to the 2009 General Assembly no later than February 1, 2009. This report shall include findings and any recommendations, including legislative proposals that would assist in implementing the recommendations.

SECTION 3. Nothing in this act shall preclude the Governor or any State agency or department from taking any action necessary to protect the interest of the State in the FERC relicensing procedure known as FERC Project No. P-2197.

SECTION 4. The Department of Environment and Natural Resources ("DENR") shall, to the extent allowed by State and federal statutes and rules, and without delaying its decision, consider the report submitted by the Commission under Section 2 of this act in making any decision on an application for water quality certification requested by APGI in connection with FERC relicensing of Project No.

P-2197. The report submitted by the Commission under Section 2 of this act shall be included in the information necessary to trigger the 60-day time limit for the Director's decision pursuant to 15A NCAC 02H .0507(a) and shall be promptly supplied to the Director of the Division of Water Quality in DENR upon receipt by the General Assembly. Failure by the Commission to issue a report by the date specified in Section 2 will not prohibit DENR from making a final determination on such certification, nor is it the intent of the General Assembly to delay the processing by DENR of any such certification. Nothing in this act shall affect the authority of DENR to provide notices, request additional studies or information, conduct hearings, or issue or deny a 401 Water Quality Certification for FERC relicensing Project No. P-2197.

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, 2008.

Became law upon approval of the Governor at 8:19 p.m. on the 28th day of July, 2008.

Session Law 2008-138

H.B. 1549

AN ACT TO AMEND THE PROCESS OF APPOINTMENTS TO THE NORTH CAROLINA AUCTIONEERS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 85B-3(a) reads as rewritten:

"(a) There shall be a five-member North Carolina Auctioneers Commission having the powers and responsibilities set out in this Chapter. The Governor shall appoint the members of the Commission, at least three of whom, and their successors, ~~shall~~may be from nominations submitted by the Auctioneers Association of North Carolina. The Auctioneers Association shall submit, within 45 days of when the vacancy occurs, at least three names for each position for which it is entitled to make a nomination. Of the initial five members of the Commission one shall be appointed for a one-year term, two shall be appointed for two-year terms and two for three-year terms; thereafter, each new member shall be appointed for a term of three years. Any vacancy shall be filled for the remainder of the unexpired term only. Each member shall continue in office until his successor is appointed and qualified. No member shall serve more than two complete consecutive terms."

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 8:20 p.m. on the 28th day of July, 2008.

Session Law 2008-139

H.B. 1284

AN ACT TO PROVIDE THAT A CAUSE OF ACTION AGAINST A LOCAL GOVERNMENT ARISING OUT OF A CONTRACT TO IMPROVE REAL PROPERTY OTHERWISE BARRED BY THE STATUTE OF LIMITATIONS MAY BE COMMENCED NO LATER THAN NINETY DAYS AFTER SUBSTANTIAL COMPLETION OF THE CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-53(1) reads as rewritten:

"(1) An action against a local unit of government upon a contract, obligation or liability arising out of a contract, express or implied. Unless otherwise provided by law, if the preceding sentence of this subsection would bar commencement of a cause of action arising out of a contract to improve real property: (i) such an action may be brought no later than 90 days after substantial completion, provided proper notice of the claim has been given if required by contract, or (ii) if prior to substantial completion the contract was terminated by either party, such an action may be brought no later than 90 days after the date of termination of the contract. As used in this subdivision, 'substantial completion' has the same meaning as in G.S. 1-50(a)(5)c. This subdivision shall not apply to actions based upon bonds, notes and interest coupons or when a different period of limitation is prescribed by this Article."

SECTION 2. This act is effective when it becomes law, applies to actions filed on or after that date, and does not revive claims previously barred under G.S. 1-53(1).

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 8:21 p.m. on the 28th day of July, 2008.

Session Law 2008-140

S.B. 1259

AN ACT TO PROVIDE THAT WATER SUPPLIED BY A PUBLIC WATER SYSTEM REGULATED UNDER THE NORTH CAROLINA DRINKING WATER ACT IS NOT SUBJECT TO CERTAIN WARRANTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-315 is amended by adding a new subsection to read:

"(g) A supplier of water regulated under this Article shall not be deemed to provide any warranty under Article 2 of Chapter 25 of the General Statutes, including an implied warranty of merchantability or an implied warranty of fitness for a particular purpose."

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, 2008.

Became law upon approval of the Governor at 8:25 p.m. on the 28th day of July, 2008.

Session Law 2008-141

S.B. 1340

AN ACT TO PROVIDE FOR THE SALE OF BLOCKS OF 10 TEN-DAY COASTAL RECREATIONAL FISHING LICENSES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 14B of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-174.5. Blocks of 10 Ten-Day Coastal Recreational Fishing Licenses.

(a) The owner of a vessel that is 23 feet or more in length and that is either documented with the United States Coast Guard or registered with the Wildlife Resources Commission pursuant to G.S. 75A-4 may purchase a block of 10 Ten-Day CRFLs issued by the Division. A vessel owner who wishes to obtain a block of 10 Ten-Day CRFLs shall provide the Division with all information required by the Division, including information identifying the vessel on which the Ten-Day CRFLs will be used. Each individual Ten-Day CRFL shall identify the vessel for which the block of 10 Ten-Day CRFLs is issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may only be used on the vessel for which it was issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may not be used on a for hire boat. A block of 10 Ten-Day CRFLs shall expire two years from the date of purchase.

(b) The fee for a block of 10 Ten-Day CRFLs is one hundred fifty dollars (\$150.00). An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs is valid for a period of 10 consecutive days beginning on the date that the license information is recorded as provided by subsection (c) of this section.

(c) Prior to any recreational fishing occurring under the authority of an individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs, the vessel owner who purchased the block of 10 Ten-Day CRFLs shall record the date fishing activity will begin and the name, address, telephone number, and date of birth of the individual who will be fishing under the authority of the individual Ten-Day CRFL.

(d) A vessel owner who purchases a block of 10 Ten-Day CRFLs shall comply with all data and information reporting requirements of the Division.

(e) A vessel owner who fails to comply with any of the requirements governing the issuance, use, recording, or reporting of blocks of 10 Ten-Day CRFLs will be ineligible to purchase any additional blocks of 10 Ten-Day CRFLs for a period of two years from the date of noncompliance."

SECTION 2. This act becomes effective January 1, 2009.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 8:25 p.m. on the 28th day of July, 2008.

Session Law 2008-142

S.B. 1100

AN ACT TO ALLOW THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO EXPEND FUNDS TO COVER FUNERAL EXPENSES FOR MEMBERS OF THE STATE HIGHWAY PATROL KILLED IN THE LINE OF DUTY, AND TO STUDY THE PAYMENT OF FUNERAL EXPENSES FOR STATE LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-476 is amended by adding a new subsection to read:

"(i) In addition to any other benefits that may be payable, the Secretary may use up to the sum of ten thousand dollars (\$10,000) from funds available to the Department

as reimbursement for funeral expenses to the family of a member of the State Highway Patrol who is killed in the line of duty, provided that funding is available."

SECTION 2. The Department of Crime Control and Public Safety shall study whether the Secretary should be authorized to reimburse the family for funeral expenses of a State law enforcement officer who is killed in the line of duty. The study shall include a determination on the maximum amount to be paid, and whether additional funds beyond those available to the Department should be appropriated for the expenses. The Department shall report the results of its study, with any recommendations for legislation, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by January 1, 2009.

SECTION 3. Section 1 of this act becomes effective June 1, 2008, and expires June 1, 2009. 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, 2008.

Became law upon approval of the Governor at 8:27 p.m. on the 28th day of July, 2008.

Session Law 2008-143

H.B. 2499

AN ACT TO IMPROVE DROUGHT PREPAREDNESS AND RESPONSE IN NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.22H reads as rewritten:

"§ 143-215.22H. **Registration of water withdrawals and transfers required.**

(a) Any person who withdraws 100,000 gallons per day or more of water from the surface or groundwaters of the State or who transfers 100,000 gallons per day or more of water from one river basin to another shall register the withdrawal or transfer with the Commission. A person registering a water withdrawal or transfer shall provide the Commission with the following information:

- (1) The maximum daily amount of the water withdrawal or transfer expressed in thousands of gallons per day.
- (1a) The monthly average withdrawal or transfer expressed in thousands of gallons per day.
- (2) The location of the points of withdrawal and discharge and the capacity of each facility used to make the withdrawal or transfer.
- (3) The monthly average discharge expressed in thousands of gallons per day.

(b) Any person initiating a new water withdrawal or transfer of 100,000 gallons per day or more shall register the withdrawal or transfer with the Commission not later than ~~six~~two months after the initiation of the withdrawal or transfer. The information required under subsection (a) of this section shall be submitted with respect to the new withdrawal or transfer.

(b1) Subsections (a) and (b) of this section shall not apply to a person who withdraws or transfers less than 1,000,000 gallons per day of water for activities directly related or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy products, livestock, poultry, and other agricultural ~~products~~products, or to the creation or maintenance of waterfowl impoundments.

(b2) Registration of a withdrawal or transfer of water under this section or information that is provided by a water user pursuant to G.S. 106-24 and authorized for release to the Commission by the individual water user may be used as evidence of historic water use in the event that it becomes necessary or desirable to allocate available water resources among specific classes, persons, or individuals who use water resources.

(c) A unit of local government that has completed a local water supply plan that meets the requirements of G.S. 143-355(l) and that has periodically revised and updated its plan as required by the Department has satisfied the requirements of this section and is not required to separately register a water withdrawal or transfer or to update a registration under this section.

(d) Any person who is required to register a water withdrawal or transfer under this section shall update the registration by providing the Commission with a current version of the information required by subsection (a) of this section at five-year intervals following the initial registration. A person who submits information to update a registration of a water withdrawal or transfer is not required to pay an additional registration fee under G.S. 143-215.3(a)(1a) and G.S. 143-215.3(a)(1b), but is subject to the late registration fee established under this section in the event that updated information is not submitted as required by this subsection.

(e) Any person who is required to register a water transfer or withdrawal under this section and fails to do so shall pay, in addition to the registration fee required under G.S. 143-215.3(a)(1a) and G.S. 143-215.3(a)(1b), ~~a late registration fee of five dollars (\$5.00) per day for each day the registration is late up to a maximum of five hundred dollars (\$500.00)~~ a civil penalty of one hundred dollars (\$100.00). A person who is required to update a registration under this section and fails to do so shall pay ~~a fee of five dollars (\$5.00) per day for each day the updated information is late up to a maximum of five hundred dollars (\$500.00)~~ a civil penalty of fifty dollars (\$50.00). ~~A late registration fee shall not be charged to a farmer who submits a registration that pertains to farming operations.~~ For each willful action or failure to act for which a penalty may be assessed under this subsection, the Commission may consider each day the action or inaction continues after notice is given of the violation as a separate violation. A separate penalty may be assessed for each separate violation."

SECTION 2.(a) G.S. 106-24 reads as rewritten:

"§ 106-24. Collection and publication of information relating to agriculture; cooperation.

(a) The Department of Agriculture and Consumer Services shall collect, compile, systematize, tabulate, and publish statistical information relating to agriculture. The Department is authorized to use sample surveys to collect primary data relating to agriculture. The Department is authorized to cooperate with the United States Department of Agriculture and the several boards of county commissioners of the State, to accomplish the purpose of this Part.

(b) The Department of Agriculture and Consumer Services shall annually collect information on water use by persons who withdraw 10,000 gallons per day or more of water from the surface or groundwater sources of the State for activities directly related or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy products, livestock, poultry, and other agricultural products. The information shall be collected by survey conducted pursuant to subsection (a) of this section and in accordance with Title 7 United States Code Section 2276 (Confidential Information Protection and Statistical Efficiency Act). The Department shall develop

the survey form in consultation with the Department of Environment and Natural Resources. The Department shall report the results of the water use survey to the Environmental Review Commission no later than 1 July of each year and shall provide a copy of the report to the Department of Environment and Natural Resources. The report shall include recommendations about modifications to the survey, including changes in the gallons per day threshold for water use data collection. The report shall provide agricultural water use data by county. If the county is located in more than one river basin, the report shall separate the county data to show agricultural water use by river basin within the county. If publication of county or watershed data would result in disclosure of an individual operation's water use, the data will be combined with data from another county or watershed."

SECTION 2.(b) The first report required by subsection (a) of this section shall be submitted on or before 1 July 2009.

SECTION 3. G.S. 143-350 reads as rewritten:

"§ 143-350. Definitions.

As used in this Article:

- (1) "Commission" means the Environmental Management Commission.
- (2) "Department" means the Department of Environment and Natural Resources.
- (3) "Essential water use" means the use of water necessary for firefighting, health, and safety; water needed to sustain human and animal life; and water necessary to satisfy federal, State, and local laws for the protection of public health, safety, welfare, the environment, and natural resources; and a minimum amount of water necessary to maintain the economy of the State, region, or area.
- (4) "Large community water system" means a community water system, as defined in G.S. 130A-313(10), that regularly serves 1,000 or more service connections or 3,000 or more individuals.
- (5) "Unit of local government" means a county, city, consolidated city-county, sanitary district, or other local political subdivision or authority or agency of local government.
- (6) "U.S. Drought Monitor" means the national drought map that designates areas of drought using the following categories D0-Abnormally Dry, D1-Moderate, D2-Severe, D3-Extreme, and D4-Exceptional. The U.S. Drought Monitor is developed and maintained by the Joint Agricultural Weather Facility, the Climate Prediction Center, the National Climatic Data Center, and the National Drought Mitigation Center with input from the United States Geological Survey, the National Water and Climate Center, the Climate Diagnostics Center, the National Weather Service, state climatologists, and state water resource agencies.
- (7) "Water shortage emergency" means a water shortage resulting from prolonged drought, contamination of the water supply, damage to water infrastructure, or other unforeseen causes that presents an imminent threat to public health, safety, and welfare or to the environment."

SECTION 4. G.S. 143-354 reads as rewritten:

"§ 143-354. Ordinary powers and duties of the Commission.

(a) Powers and Duties in General. – Except as otherwise specified in this Article, the powers and duties of the Commission shall be as follows:

- (1) The Commission shall carry out a program of planning and education concerning the most beneficial long-range conservation and use of the water resources of the State. It shall investigate the long-range needs of counties and municipalities and other local governments for water supply storage available in federal projects.
- (2) The Commission shall advise the Governor as to how the State's present water research activities might be coordinated.
- (3) ~~The Commission, based on information available, shall notify any municipality or other governmental unit of potential water shortages or emergencies foreseen by the Commission affecting the water supply of such municipality or unit together with the Commission's recommendations for restricting and conserving the use of water or increasing the water supply by or in such municipality or unit. Failure reasonably to follow such recommendations shall make such municipality or other governmental unit ineligible to receive any emergency diversion of waters as hereinafter provided.~~
- (4) The Commission is authorized to call upon the Attorney General for such legal advice as is necessary to the functioning of the Commission.
- (5) Recognizing the complexity and difficulties attendant upon the recommendation of the General Assembly of fair and beneficial legislation affecting the use and conservation of water, the Commission shall solicit from the various water interests of the State their suggestions thereon.
- (6) The Commission may hold public hearings for the purpose of obtaining evidence and information and permitting discussion relative to water resources legislation and shall have the power to subpoena witnesses therefor.
- (7) All recommendations for proposed legislation made by the Commission shall be available to the public.
- (8) The Commission shall adopt such rules and regulations as may be necessary to carry out the purposes of this Article.
- (9) Any member of the Commission or any person authorized by it, shall have the right to enter upon any private or public lands or waters for the purpose of making investigations and studies reasonably necessary in the gathering of facts concerning streams and watersheds, subject to responsibility for any damage done to property entered.
- (10) The Commission is authorized to provide to federal agencies the required assurances, subject to availability of appropriations by the General Assembly or applicable funds or assurances from local governments, of nonfederal cooperation for water supply storage and other congressionally authorized purposes in federal projects.
- (11) The Commission is authorized to assign or transfer to any county or municipality or other local government having a need for water supply storage in federal projects any interest held by the State in such storage, upon the assumption of repayment obligation therefor, or compensation to the State, by such local government. The Commission

shall also have the authority to reassign or transfer interests in such storage held by local governments, if indicated by the investigation of needs made pursuant to subdivision (1) of subsection (a)(1)(a) of this section, subject to equitable adjustment of financial responsibility.

~~(b) Declaration of Water Emergency.— Upon the request of the governing body of a county, city or town the Commission shall conduct an investigation to determine whether the needs of human consumption, necessary sanitation and public safety require emergency action as hereinafter provided. Upon making such determination, the Commission shall conduct a public hearing on the question of the source of relief water after three days' written notice of such hearing has been given to any persons having the right to the immediate use of water at the point from which such water is proposed to be diverted. After determining the source of such relief water the Commission shall then notify the Governor and he shall have the authority to declare a water emergency in an area including said county, city or town and the source or sources of water available for the relief hereinafter provided; provided, however, that no emergency period shall exceed 30 days but the Governor may declare any number of successive emergencies upon request of the Commission.~~

~~(c) Water Emergency Powers and Duties of the Commission.— Whenever, pursuant to this Article, the Governor has declared the existence of a water emergency within a particular area of the State, the Commission shall have the following duties and powers to be exercised only within said area and only during such time as the Governor has, pursuant to this Article, designated as the period of emergency:~~

- ~~(1) To authorize any county, city or town in which an emergency has been declared to divert water in the emergency area sufficient to take care of the needs of human consumption, necessary sanitation and public safety. Provided, however, there shall be no diversion of waters from any stream or body of water pursuant to this Article unless the person controlling the water or sewerage system into which such waters are diverted shall first have limited and restricted the use of water in such water or sewerage system to human consumption, necessary sanitation and public safety and shall have effectively enforced such restrictions. Diversion of waters shall cease upon the termination of the water emergency or upon the finding of the Commission that the person controlling the water or sewerage system using diverted waters has failed to enforce effectively the restrictions on use to human consumption and necessary sanitation and public safety. In the event waters are diverted pursuant to this Article, there shall be no diversion to the same person in any subsequent year unless the Commission finds as fact from evidence presented that the person controlling the water or sewerage system has made reasonable plans and acted with due diligence pursuant thereto to eliminate future emergencies by adequately enlarging such person's own water supply.~~
- ~~(2) To make such reasonable rules and regulations governing the conservation and use of diverted waters within the emergency area as shall be necessary for the health and safety of the persons who reside within the emergency area; and the violation of such rules and regulations during the period of the emergency shall constitute a Class 1 misdemeanor; provided, however, that before such rules and regulations shall become effective, they shall be published in not less~~

~~than two consecutive issues of not less than one newspaper generally circulated in the emergency area.~~

~~(d) Temporary Rights of Way.—When any diversion of waters is ordered by the Commission pursuant to this Article, the person controlling the water or sewerage system into which such waters are diverted is hereby empowered to lay necessary temporary water lines for the period of such emergency across, under or above any and all properties to connect the emergency water supply to an intake of said water or sewerage system. The route of such water lines shall be prescribed by the Commission.~~

~~(e) Compensation for Water Allocated during Water Emergency and Temporary Rights of Way.—Whenever the Commission, pursuant to this Article has ordered any diversion of waters, the person controlling the waters or sewerage system into which such waters are diverted shall be liable to all persons suffering any loss or damage caused by or resulting from the diversion of such waters or caused by or resulting from the laying of temporary water lines to effectuate such diversion. The Commission, before ordering such diversion, shall require that the person against whom liability attaches hereunder to post bond with a surety approved by the Commission in an amount determined by the Commission and conditioned upon the payment of such loss or damage."~~

SECTION 5. Article 38 of Chapter 143 of the General Statutes is amended by adding a new section to read:

§ 143-355.2. Water conservation measures for drought.

(a) Each unit of local government that provides public water service and each large community water system shall develop and implement water conservation measures to respond to drought or other water shortage conditions as provided in this section. Pursuant to G.S. 143-355(l), water conservation measures to respond to drought or other water shortage conditions shall be set out in a water shortage response plan and submitted to the Department for review and approval. The Department shall approve the water shortage response plan if the plan meets all of the following criteria:

- (1) The plan includes tiered levels of water conservation measures or other response actions based on the severity of water shortage conditions.
- (2) Each tier of water conservation measures shall be based on increased severity of drought or water shortage conditions and will result in more stringent water conservation measures.
- (3) All other requirements of rules adopted by the Commission pursuant to S.L. 2002-167.
- (4) Does not contain any provision that meters or regulates private drinking water wells, as defined in G.S. 87-85.

(b) The Department may require a unit of local government that provides public water service or a large community water system to implement the more stringent water conservation measures described in subsection (d) of this section if the Department makes written findings that any county, as determined by subsection (e) of this section, in which the source of water for the public water system operated by the unit of local government or by a large community water system is in:

- (1) Severe, extreme, or exceptional drought, and the Department finds all of the following:
 - a. The unit of local government that provides water service or large community water system has not begun implementation of any level of water conservation measures set out in the water shortage response plan.

- b. Implementation of measures is necessary to minimize the harmful impacts of drought on public health, safety, and the environment, including the potential impacts of drought or other water shortage on interconnected water systems and other water systems withdrawing from the same water source, or
- (2) Extreme or exceptional drought, and the Department finds that the unit of local government that provides water service or large community water system has implemented the measures required under the water shortage response plan for the appropriate tier of water conservation measure for 30 days or more and that implementation of the measures required has not reduced water use in an amount sufficient to minimize the harmful impacts of drought on public health, safety, and the environment, including the potential impact of drought or other water shortage on interconnected water systems and other water systems withdrawing from the same water source.
- (c) In making the findings required under subsection (b) of this section, the Department shall consider the:
- (1) Hydrological drought conditions.
 - (2) Drought forecast.
 - (3) Reductions in water use achieved under water conservation measures in effect.
 - (4) Availability of other water supply sources and other indicators of the extent and severity of drought impacts.
 - (5) Economic impacts on the community to implement more stringent water conservation measures.
 - (6) Conservation measures of all registered water withdrawals within the same 8 digit hydrologic unit code established by the U.S. Geological Survey to the extent the Department is able to document those measures.
- (d) Based on the findings required under subsection (b) of this section, the Department may require the unit of local government that provides public water service or the large community water system to begin implementation of its plan or to implement the next tier of water shortage response measures. If, after consultation with the unit of local government or the large community water system, the Department makes a written finding that the next tier of measures set out in the plan, together with any other reasonable steps that may be available to reduce water use, will not reduce water use in an amount sufficient to minimize the harmful impacts of drought on public health, safety, and the environment, including the potential impact of drought or other water shortage on interconnected water systems and other water systems drawing from the same water source, then the Department may require implementation of the tier that is two levels more stringent than the tier being implemented.
- (e) For purposes of this section, the drought designation for an area shall be the U.S. Drought Monitor designation for the county in which the water source is located as published by the Drought Management Advisory Council. The Secretary may approve a county drought designation that is different from the U.S. Drought Monitor designation pursuant to G.S. 143-355.1(f1). If the water source is located in more than one county and the counties have different drought designations, the Council shall recommend to the Secretary the drought designation to be applied to water systems that withdraw

water from the water source. The recommendation of the Council shall be based on the drought indicators identified in G.S. 143-355.1(f) as applied to the water source.

(f) A unit of local government that provides public water service or a large community water system that does not have a water shortage response plan shall implement the default water conservation measures for extreme and exceptional drought set out in the rules adopted by the Commission pursuant to S.L. 2002-167.

(g) A unit of local government that provides water service or a large community water system that does not have an approved water shortage response plan shall implement the default water conservation measures specified in subsection (f) of this section within 10 days following a drought designation that requires implementation of water conservation measures. A water shortage response plan is presumed to be approved until the Department notifies the unit of local government or large community water system that the plan has been disapproved. A unit of local government that provides public water service and a large community water system shall be deemed to be in compliance with this section if, within 10 days after water shortage conditions identified in the plan require implementation of water conservation measures, the water system begins implementation of the water conservation measures required by the plan.

(h) Water conservation measures imposed by a unit of local government that provides public water service or by a large community water system may be more stringent than the minimum water conservation measures required under this section.

(i) A unit of local government that provides public water service and a large community water system shall report that the water system has begun implementation of water conservation measures set out in the water system's water shortage response plan or the default water conservation measures to the Department within 72 hours after beginning implementation.

(j) This section shall not be construed to authorize or require the implementation of water conservation management measures that conflict with or are superseded by the provisions of any order of a federal or State court or administrative agency, any interstate agreement governing the allocation of water to which the State is a party, or any license for a hydroelectric generating facility issued by the Federal Energy Regulatory Commission; including, without limitation, any protocol or subsidiary agreement that may be part of or incorporated in any such order, interstate agreement, or operating license."

SECTION 6. The Environmental Review Commission, as part of its ongoing study of the allocation of water resources in the State required by Section 1 of S.L. 2007-518, shall study issues related to increasing water supply, including issues related to reservoir construction and State laws and rules governing reservoir construction. The Environmental Review Commission shall report its findings and recommendations, including any legislative proposals, to the General Assembly as provided by Section 1 of S.L. 2007-518, as amended.

SECTION 7. G.S. 143-355 reads as rewritten:

"§ 143-355. Powers and duties of the Department.

(a) Repealed by Session Laws 1989, c. 603, s. 1.

(b) Functions to Be Performed. – The Department shall:

(1) Request the North Carolina Congressional Delegation to apply to the Congress of the United States whenever deemed necessary for appropriations for protecting and improving any harbor or waterway in the State and for accomplishing needed flood control, shore-erosion

- prevention, and water-resources development for water supply, water quality control, and other purposes.
- (2) Initiate, plan, and execute a long-range program for the preservation, development and improvement of rivers, harbors, and inland ports, and to promote the public interest therein.
 - (3) Prepare and recommend to the Governor and the General Assembly any legislation which may be deemed proper for the preservation and improvement of rivers, harbors, dredging of small inlets, provision for safe harbor facilities, and public tidewaters of the State.
 - (4) Make engineering studies, hydraulic computations, hydrographic surveys, and reports regarding shore-erosion projects, dams, reservoirs, and river-channel improvements; to develop, for budget and planning purposes, estimates of the costs of proposed new projects; to prepare bidding documents, plans, and specifications for harbor, coastal, and river projects, and to inspect materials, workmanship, and practices of contractors to assure compliance with plans and specifications.
 - (5) Cooperate with the United States Army Corps of Engineers in causing to be removed any wrecked, sunken or abandoned vessel or unauthorized obstructions and encroachments in public harbors, channels, waterways, and tidewaters of the State.
 - (6) Cooperate with the United States Coast Guard in marking out and establishing harbor lines and in placing buoys and structures for marking navigable channels.
 - (7) Cooperate with federal and interstate agencies in planning and developing water-resource projects for navigation, flood control, hurricane protection, shore-erosion prevention, and other purposes.
 - (8) Provide professional advice to public and private agencies, and to citizens of the State, on matters relating to tidewater development, river works, and watershed development.
 - (9) Discuss with federal, State, and municipal officials and other interested persons a program of development of rivers, harbors, and related resources.
 - (10) Make investigations and render reports requested by the Governor and the General Assembly.
 - (11) Participate in activity of the National Rivers and Harbors Congress, the American Shore and Beach Preservation Association, the American Watershed Council, the American Water Works Association, the American Society of Civil Engineers, the Council of State Governments, the Conservation Foundation, and other national agencies concerned with conservation and development of water resources.
 - (12) Prepare and maintain climatological and water-resources records and files as a source of information easily accessible to the citizens of the State and to the public generally.
 - (13) Formulate and administer a program of dune rebuilding, hurricane protection, and shore-erosion prevention.
 - (14) Include in the biennial budget the cost of performing the additional functions indicated above.

- (15) Initiate, plan, study, and execute a long-range floodplain management program for the promotion of health, safety, and welfare of the public. In carrying out the purposes of this subsection, the primary responsibility of floodplain management rests with the local levels of government and it is, therefore, the policy of this State and of this Department to provide guidance, coordination, and other means of assistance, along with the other agencies of this State and with the local levels of government, to effectuate adequate floodplain management programs.

(b1) The Department is directed to pursue an active educational program of floodplain management measures, to include in each biennial report a statement of flood damages, location where floodplain management is desirable, and suggested legislation, if deemed desirable, and within its capacities to provide advice and assistance to State agencies and local levels of government.

(c) Repealed by Session Laws 1961, c. 315.

(d) Investigation of Coasts, Ports and Waterways of State. – The Department is designated as the official State agency to investigate and cause investigations to be made of the coasts, ports and waterways of North Carolina and to cooperate with agencies of the federal and State government and other political subdivisions in making such investigations. The provisions of this section shall not be construed as in any way interfering with the powers and duties of the Utilities Commission, relating to the acquiring of rights-of-way for the Intra-Coastal Waterway; or to authorize the Department to represent the State in connection with such duties.

(e) Repealed by Session Laws 1998-129, s. 1, effective January 1, 2000.

(f) Samples of Cuttings to Be Furnished the Department When Requested. – Every person, firm or corporation engaged in the business of drilling, boring, coring or constructing wells in any manner by the use of power machinery shall furnish the Department samples of cuttings from such depths as the Department may require from all wells constructed by such person, firm or corporation, when such samples are requested by the Department. The Department shall bear the expense of delivering such samples. The Department shall, after an analysis of the samples submitted, furnish a copy of such analysis to the owner of the property on which the well was constructed; the Department shall not report the results of any such analysis to any other person whatsoever until the person legally authorized to do so authorizes in writing the release of the results of the analysis.

(g) Reports of Each Well Required. – Every person, firm or corporation engaged in the business of drilling, boring, coring, or constructing wells with power machinery within the State of North Carolina shall, within 30 days of the completion of each well, report to the Department on forms furnished by the Department the location, size, depth, number of feet of casing used, method of finishing, and formation log information of each such well. In addition such person, firm or corporation shall report any tests made of each such well including the method of testing, length of test, draw-down in feet and yield in gallons per minute. The person, firm or corporation making such report to the Department shall at the time such report is made also furnish a copy thereof to the owner of the property on which the well was constructed.

(h) Drilling for Petroleum and Minerals Excepted. – The provisions of this Article shall not apply to drillings for petroleum and minerals.

(i) Penalty for Violation. – Any person violating the provisions of subsections (e), (f) and (g) of G.S. 143-355 shall be guilty of a Class 3 misdemeanor and, upon

conviction, shall only be punished by a fine of fifty dollars (\$50.00). Each violation shall constitute a separate offense.

(j) **Miscellaneous Duties.** – The Department shall make investigations of water supplies and water powers, prepare and maintain a general inventory of the water resources of the State and take such measures as it may consider necessary to promote their development; and to supervise, guide, and control the performance of the duties set forth in subsection (b) of this section and to hold hearings with regard thereto. In connection with administration of the well-drilling law the Department may prepare analyses of well cuttings for mineral and petroleum content.

(k) **Water Use Information.** – Any person using, withdrawing, diverting or obtaining water from surface streams, lakes and underground water sources shall, upon the request of the Department, file a monthly report with the Department showing the amount of water used, withdrawn, diverted or obtained from such sources. Such report shall be on a form supplied by the Department and shall show the identification of the water well or other withdrawal facility, location, withdrawal rate (measured in gallons per minute), and total gallons withdrawn during the month. Reports required to be filed under this subsection shall be filed on or before the fifteenth day of the month succeeding the month during which the using, withdrawing, diverting or obtaining water required to be reported occurred. This subsection does not apply to withdrawals or uses by individuals or families for household, livestock, or gardens. All reports required under this subsection are provided solely for the purpose of the Department. Within the meaning of this subsection the term "person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, and private or public corporations organized or existing under the laws of this State or any other state or country. In the event of extreme or exceptional drought or other water shortage, the Department may require each local government water system and each large community water system in the affected area to report the amount of water used, withdrawn, diverted, or obtained on a weekly basis and may require the reporting of additional information necessary to assess and manage the drought or water shortage.

(l) ~~For purposes of this subsection, "community water system" means a community water system, as defined in G.S. 130A-313(10), that regularly serves 1,000 or more service connections or 3,000 or more individuals.~~ **Local Water Supply Plans.** – Each unit of local government that provides public water service or that plans to provide public water service and each large community water system shall, either individually or together with other units of local government and large community water systems, prepare a local water supply plan and submit it to the ~~Department~~ Department for approval. The Department shall provide technical assistance with the preparation of plans to units of local government and large community water systems upon request and to the extent that the Department has resources available to provide assistance. At a minimum, each unit of local government and large community water system shall include in local water supply plans all information that is readily available to it. Plans shall include present and projected population, industrial development, and water use within the service area; present and future water supplies; an estimate of the technical assistance that may be needed at the local level to address projected water needs; current and future water conservation and water reuse programs; a description of how the local government or large community water system will respond to drought and other water shortage emergencies and continue to meet essential public water supply needs during the emergency; and any other related information as the Department may require in the

preparation of a State water supply plan. Local plans shall be revised to reflect changes in relevant data and projections at least once each five years unless the Department requests more frequent revisions. The revised plan shall include the current and anticipated reliance by the local government unit or large community water system on surface water transfers as defined by G.S. 143-215.22G. Local plans and revised plans shall be submitted to the Department once they have been approved by each unit of local government and large community water system that participated in the preparation of the plan.

(m) In order to assure the availability of adequate supplies of good quality water to protect the public health and to support desirable economic growth, the Department shall develop a State water supply plan. The State water supply plan shall include the information and projections required to be included in local plans, a summary of water conservation and water reuse programs described in local plans, a summary of the technical assistance needs indicated by local plans, and shall indicate the extent to which the various local plans are compatible. The State plan shall identify potential conflicts among the various local plans and ways in which local water supply programs could be better coordinated.

(n) The Department of Environment and Natural Resources shall report to the Environmental Review Commission on the implementation of this section and the development of the State water supply plan on or before 1 September of each year."

SECTION 8. Article 38 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-355.3. Water shortage emergency powers.

(a) Declaration of Water Shortage Emergency. – If, after consultation with the affected water system and the unit of local government with jurisdiction over the area served by the water system, the Secretary determines that the needs of human consumption, necessary sanitation, and public safety require emergency action, the Secretary shall provide the Governor with written findings setting out the basis for declaration of a water shortage emergency. The Governor shall have the authority to declare a water shortage emergency in the area affected by the water shortage emergency, which may include both the water system experiencing a water shortage emergency and the area served by a water system required under subdivision (1) of subsection (b) of this section to provide water in response to the water shortage emergency. No emergency period shall exceed 30 days, but the Governor may declare successive emergencies based upon the written findings of the Secretary.

(b) Water Shortage Emergency Powers and Duties. – Whenever, pursuant to this Article, the Governor declares the existence of a water shortage emergency within a particular area of the State, the Secretary shall have the powers and duties set out in subdivisions (1), (2), and (3) of this subsection. These powers may only be exercised within the designated water shortage emergency area, after the Secretary has consulted with the affected water systems and determined that the water shortage emergency cannot be effectively managed in the absence of exercising these powers, and only for the period of the water shortage emergency. Under these circumstances, the Secretary has the power and duty to:

- (1) Require any water system that has water supply in excess of that required to meet the essential water uses of its customers to provide water to a water system experiencing a water shortage emergency. The Secretary shall give preference to diversion of water from a water system within the same river basin as the water system that is

experiencing a water shortage emergency. A diversion of water that requires a certificate under G.S. 143-215.22L shall meet the requirements of that section. The amount required to be supplied shall be limited to the amount necessary to supply essential water uses within the receiving system. The required diversion of waters shall cease upon the termination of the water shortage emergency.

- (2) Adopt rules governing the conservation and use of water within the water shortage emergency area as shall be necessary to maintain essential water use within the water shortage emergency area. Before such rules and regulations shall become effective, they shall be published in two consecutive issues of a daily newspaper generally circulated in the emergency area.
- (3) Adopt rules governing conservation and use of water within the service area of the water system from which water is being diverted as shall be necessary to maintain essential water uses in the system while supplying water to the water shortage emergency area.

(c) Temporary Rights-of-Way. – A water system that is affected by a water shortage emergency is authorized to lay necessary temporary waterlines for the period of a declared water shortage emergency across, under, or above any and all properties to connect the water system experiencing a water shortage emergency to an emergency intake in a new water source or to interconnect the water system to a supplying water or wastewater system without first acquiring right-of-way. The Department shall expedite the approval of temporary waterlines needed to provide emergency water supply under this section. Temporary waterlines installed under this section shall be removed within 90 days following the end of the emergency period except that the Secretary may, for good cause, authorize a 30-day extension.

(d) Compensation for Water Allocated During Water Shortage Emergency and Temporary Rights-of-Way. – Whenever the Secretary, pursuant to this Article, has ordered any diversion of water, the receiving water or wastewater system shall reimburse the supplying water system for the cost of the water. The cost charged to the receiving system shall not exceed one hundred ten percent (110%) of the retail cost that would be charged to a customer of the supplying system for an equivalent amount of water and any additional costs incurred by the supplying system for alterations to its infrastructure or water treatment to effectuate the diversion except as provided under an interlocal agreement. Unless liability is otherwise assigned in an interlocal agreement, the receiving water system shall be liable to all persons suffering any loss or damage caused by or resulting from the laying of temporary waterlines to effectuate the diversion. Within 10 days of placing the temporary waterlines, the water system that is liable shall institute a civil action in accordance with the procedures set out under Article 9 of Chapter 136 of the General Statutes to compensate the property owners for any taking caused by or resulting from the laying of temporary waterlines, with the water system that is liable having the role of the Department of Transportation and the governing board of the water system that is liable having the role of the Secretary of Transportation under Article 9 of Chapter 136 of the General Statutes. The placing of temporary waterlines pursuant to this section is not subject to the provisions of G.S. 153A-15.

(e) This section shall not be construed to authorize or require any actions that conflict with or are superseded by the provisions of any order of a federal or State court or administrative agency, any interstate agreement governing the allocation of water to

which the State is a party, or any license for a hydroelectric generating facility issued by the Federal Energy Regulatory Commission; including, without limitation, any protocol or subsidiary agreement that may be part of or incorporated in any such order, interstate agreement, or operating license."

SECTION 9. Article 38 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-355.4. Water system efficiency.

(a) Local government water systems and large community water systems shall require separate meters for new in-ground irrigation systems that are connected to their systems.

(b) To be eligible for State water infrastructure funds from the Drinking Water Revolving Fund or the Drinking Water Reserve Fund or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

- (1) Has established a water rate structure that is adequate to pay the cost of maintaining, repairing, and operating the system, including reserves for payment of principal and interest on indebtedness incurred for maintenance or improvement of the water system during periods of normal use and periods of reduced water use due to implementation of water conservation measures. The funding agency shall apply guidelines developed by the State Water Infrastructure Commission in determining the adequacy of the water rate structure to support operation and maintenance of the system.
- (2) Has implemented a leak detection and repair program.
- (3) Has an approved water supply plan pursuant to G.S. 143-355.
- (4) Meters all water use except for water use that is impractical to meter, including, but not limited to, use of water for firefighting and to flush waterlines.
- (5) Does not use a rate structure that gives residential water customers a lower per-unit water rate as water use increases.
- (6) Has evaluated the extent to which the future water needs of the water system can be met by reclaimed water.
- (7) Has implemented a consumer education program that emphasizes the importance of water conservation."

SECTION 10. Article 38 of Chapter 143 is amended by adding a new section to read:

"§ 143-355.5. Water reuse; policy; rule making.

(a) Water Reuse Policy. – It is the public policy of the State that the reuse of treated wastewater or reclaimed water is critical to meeting the existing and future water supply needs of the State. The General Assembly finds that reclaimed water systems permitted and operated under G.S. 143-215.1(d2) in an approved wastewater reuse program can provide water for many beneficial purposes in a way that is both environmentally acceptable and protective of public health.

(b) Rule Making. – The Commission shall encourage and promote safe and beneficial reuse of treated wastewater as an alternative to surface water discharge. The Commission shall adopt rules to:

- (1) Identify acceptable uses of reclaimed water, including toilet flushing, fire protection, decorative water features, and landscape irrigation.
- (2) Facilitate the permitting of reclaimed water systems.
- (3) Establish standards for reclaimed water systems that are adequate to prevent the direct distribution of reclaimed water as potable water."

SECTION 11. Article 38 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-355.6. Enforcement.

(a) The Secretary may assess a civil penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) against any person who:

- (1) Fails to report water use or other information required under G.S. 143-355(k).
- (2) Fails to act in accordance with the terms, conditions, or requirements of an order issued by the Secretary under G.S. 143-355.3.
- (3) Violates any provision of this Article or any rule adopted by the Commission, the Department, or the Secretary implementing this Article.

(b) For each willful action or failure to act for which a penalty may be assessed under this section, the Secretary may consider each day the action or inaction continues after notice is given of the violation as a separate violation. A separate penalty may be assessed for each separate violation.

(c) The Secretary may assess a civil penalty of not more than ten thousand dollars (\$10,000) per month against a unit of local government that provides public water service or a large community water system that fails to implement the water conservation measures set out in the water shortage response plan approved by the Department under G.S. 143-355.2, measures required by the Department under subsections (b) and (d) of G.S. 143-355.2, or the default measures required under rules adopted by the Commission under S.L. 2002-167. The amount of the civil penalty shall be based on the factors set out in G.S. 143B-282.1(b). The Secretary may remit a civil penalty based on the factors set out in G.S. 143B-282.1(c)(1).

(d) The violation of emergency water conservation rules adopted by the Secretary pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

(e) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons for the assessment by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment."

SECTION 12. Article 10 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-329. Reporting.

Reports required to be submitted under this Article or under rules adopted by the Commission shall be submitted electronically on a form specified by the Department. The Department may waive the requirement for electronic submission of a report if the water system demonstrates that it lacks the technical capability to report electronically."

SECTION 13. G.S. 130A-335(a) reads as rewritten:

"(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide an approved wastewater system. Except as may be allowed under another provision of law, all wastewater from water-using fixtures and appliances connected to a water supply source shall discharge to the approved

wastewater system. A wastewater system may include components for collection, treatment and disposal of wastewater."

SECTION 14.(a) For purposes of this section, "gray water" means wastewater removed from household wash basins, bathtubs, and showers.

SECTION 14.(b) The Commission for Health Services shall adopt rules to authorize the use of gray water during periods of drought to hand water trees, shrubs, and inedible plants on single-family residential property. The rules shall encourage the use of gray water as provided in this section while protecting public health, safety, welfare, and the environment. In developing the rules, the Commission shall review the provisions set out in subsection (c) of this section.

SECTION 14.(c) Notwithstanding G.S. 130A-335(a), untreated gray water may be used in periods of drought to hand water trees, shrubs, and inedible plants on single-family residential property under the following conditions:

- (1) Gray water shall be applied as soon as practicable. Untreated gray water should not be stored for later use.
- (2) Gray water containing hazardous chemicals including, but not limited to, residue from solvents shall not be used.
- (3) Use of untreated gray water is restricted to the residential property where the gray water originates. Untreated gray water shall not be allowed to run off onto adjoining property, roadways, or into drainage features such as ditches and storm drains.
- (4) Untreated gray water shall be applied using buckets, watering cans, or other handheld containers. Gray water may not be used in an irrigation system unless the gray water has been treated in accordance with standards set out in the State Plumbing Code.
- (5) Gray water shall not be applied closer than 100 feet to surface waters or a water supply well.

SECTION 15. G.S. 159G-23 reads as rewritten:

"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking Water Reserve.

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Quality and the Division of Environmental Health must each establish a system of assigning points to applications based on the following criteria:

- (1) Public necessity. – An applicant must explain how the project promotes public health and protects the environment. A project that improves a system that is not in compliance with permit requirements or is under orders from the Department, enables a moratorium to be lifted, or replaces failing septic tanks with a wastewater collection system has priority.
- (2) Effect on impaired waters. – A project that improves designated impaired waters of the State has priority.
- (3) Efficiency. – A project that achieves efficiencies in meeting the State's water infrastructure needs or reduces vulnerability to drought consistent with Part 2A of Article 21 of Chapter 143 of the General Statutes by one of the following methods has priority:
 - a. The combination of two or more wastewater or public water systems into a regional wastewater or public water system by merger, consolidation, or another means.

- b. Conservation or reuse of ~~water~~-water, including bulk water reuse facilities and waterlines to supply reuse water for irrigation and other approved uses.
 - c. Construction of an interconnection between water systems intended for use in drought or other water shortage emergency.
 - d. Repair or replacement of leaking waterlines.
 - e. Replacement of meters and installation of new metering systems.
- (4) Comprehensive land-use plan. – A project that is located in a city or county that has adopted or has taken significant steps to adopt a comprehensive land-use plan under Article 18 of Chapter 153A of the General Statutes or Article 19 of Chapter 160A of the General Statutes has priority over a project located in a city or county that has not adopted a plan or has not taken steps to do so. The existence of a plan has more priority than steps taken to adopt a plan, such as adoption of a zoning ordinance. A plan that exceeds the minimum State standards for protection of water resources has more priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. A land-use plan is not considered a comprehensive land-use plan unless it has provisions that protect existing water uses and ensure compliance with water quality standards and classifications in all waters of the State affected by the plan.
- (5) Flood hazard ordinance. – A project that is located in a city or county that has adopted a flood hazard prevention ordinance under G.S. 143-215.54A has priority over a project located in a city or county that has not adopted an ordinance. A plan that exceeds the minimum standards under G.S. 143-215.54A for a flood hazard prevention ordinance has more priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. If no part of the service area of a project is located within the 100-year floodplain, the project has the same priority under this subdivision as if it were located in a city or county that has adopted a flood hazard prevention ordinance. The most recent maps prepared pursuant to the National Flood Insurance Program or approved by the Department determine whether an area is within the 100-year floodplain.
- (6) Sound management. – A project submitted by a local government unit that has demonstrated a willingness and ability to meet its responsibilities through sound fiscal policies and efficient operation and management has priority.
- (7) Capital improvement plan. – A project that implements the applicant's capital improvement plan for the wastewater system or public water system it manages has priority over a project that does not implement a capital improvement plan. To receive priority, a capital improvement plan must set out the applicant's expected water infrastructure needs for at least 10 years.
- (8) Coastal habitat protection. – A project that implements a recommendation of a Coastal Habitat Protection Plan adopted by the

Environmental Management Commission, the Coastal Resources Commission, and the Marine Fisheries Commission pursuant to G.S. 143B-279.8 has priority over other projects that affect counties subject to that Plan."

SECTION 16. G.S. 143-355.1 reads as rewritten:

"§ 143-355.1. Drought Management Advisory Council; drought advisories.

(a) The Department shall establish a Drought Management Advisory Council. The purposes of the Council are:

- (1) To improve coordination among local, State, and federal agencies; public water systems, as defined in G.S. 130A-313(10); and water users to improve the management and mitigation of the harmful effects of drought.
- (2) To provide consistent and accurate information ~~to the public about drought conditions on~~ drought conditions in the State to the U.S. Drought Monitor, the Environmental Management Commission, the Secretary, the Environmental Review Commission, and the public.

(b) The Department shall invite each of the following organizations to designate a representative to serve on the Council:

- (1) North Carolina Cooperative Extension Service.
- (2) State Climate Office at North Carolina State University.
- (3) Public Staff of the Utilities Commission.
- (4) Wildlife Resources Commission.
- (5) Department of Agriculture and Consumer Services.
- (6) Department of Commerce.
- (7) Department of Crime Control and Public Safety.
- (8) National Weather Service of the National Oceanic and Atmospheric Administration of the United States Department of Commerce.
- (9) United States Geological Survey of the United States Department of the Interior.
- (10) United States Army Corps of Engineers.
- (11) United States Department of Agriculture.
- (12) Federal Emergency Management Agency of the United States Department of Homeland Security.

(b1) Representatives designated under subsection (b) of this section shall have expertise or responsibility in meteorology, groundwater and surface water hydrology, water system operation and management, reservoir management, emergency response, or another subject area related to assessment and management of drought impacts.

(c) The Department shall also invite other agencies and organizations that represent water users, including local governments, agriculture, agribusiness, forestry, manufacturing, investor-owned water utilities regulated by the North Carolina Utilities Commission, and others as appropriate, ~~to designate a representative to serve on the Council or to~~ participate in the work of the Council with respect to particular drought related issues.

(d) The Department shall designate an employee of the Department to serve as Chair of the Council. The Council shall meet at least once in each calendar year in order to maintain appropriate agency readiness and participation. In addition, the Council shall meet on the call of the Chair to respond to drought conditions. The provisions of Article 33C of this Chapter apply to meetings of the Council.

(e) In order to provide accurate and consistent information to assist ~~local governments~~ State agencies, local governments, and other water users in taking appropriate drought response actions, the Council may issue drought advisories that designate:

- (1) Specific areas of the State in which drought conditions are impending.
- (2) Specific areas of the State that are suffering from drought conditions.
- (3) The level of severity of drought ~~conditions~~ conditions based on the drought categories used in the U.S. Drought Monitor or the drought designation approved by the Secretary under subsection (f) of this section.

(f) Drought designations by the U.S. Drought Monitor shall be the default designations for drought advisories issued under subsection (e) of this section. The Council shall publish those drought designations for each county. If more than one drought designation applies to a county, the drought designation for the county shall be the highest drought designation that applies to at least twenty-five percent (25%) of the land area of the county. The Council may recommend a drought designation for a county that is different from the designation based on the U.S. Drought Monitor if the U.S. Drought Monitor does not accurately reflect localized conditions because of differences in scale or because the U.S. Drought Monitor does not consider one or more of the indicators of drought identified in this subsection. ~~In making a determination of any of the drought designations described in subsection (e) of this section,~~ In recommending a drought designation that differs from the U.S. Drought Monitor designation, the Council shall consider stream flows, ground water levels, the amount of water stored in reservoirs, weather forecasts, the time of year, and other factors that are relevant to determining the location and severity of drought conditions.

(f1) The Secretary shall accept the Council's recommendation to adopt a drought designation for a county that is different from the designation based on the U.S. Drought Monitor if the Secretary finds that the indicators of drought identified by the Council under subsection (f) of this section support the designation recommended by the Council.

(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 17. The State Water Infrastructure Commission, in consultation with the Department of Environment and Natural Resources, the School of Government at the University of North Carolina at Chapel Hill, the North Carolina Utilities Commission, the Public Staff of the North Carolina Utilities Commission, and the Local Government Commission, shall develop guidelines for water rate structures that are adequate to pay the cost of maintaining, repairing, and operating the system, including payment of principal and interest on indebtedness incurred for maintenance or improvement of the water system. The guidelines shall also consider the effect of water rates on water conservation and recommend rate structures that support water conservation. Copies of the guidelines shall be made available to the Department of Environment and Natural Resources, the North Carolina Utilities Commission, and to all local government water systems and large community water systems, as defined in

G.S. 143-350. The Commission shall report to the Environmental Review Commission on its progress in developing the guidelines no later than January 1, 2009.

SECTION 18. The Department of Environment and Natural Resources shall develop recommendations, in consultation with the technical working group that consists of scientists from the University of North Carolina and industry experts, for water efficiency standards for water-using fixtures in residential and commercial building and in-ground irrigation systems. The Department shall also develop recommendations for efficient metering of water use by local government and large community water systems. The Department shall submit its recommendations to the Commissioner of Insurance, the Chair of the Building Code Council, and the Environmental Review Commission no later than January 1, 2009.

SECTION 19.(a) Article 1 of Chapter 47C of the General Statutes is amended by adding a new section to read:

"§ 47C-3-122. Irrigation of landscaping.

Notwithstanding any provision in any declaration of covenants, no requirement to irrigate landscaping shall be construed to:

- (1) Require the irrigation of landscaping, during any period in which the U.S. Drought Monitor, as defined in G.S. 143-350, or the Secretary of Environment and Natural Resources has designated an area in which the association is located as an area of severe, extreme, or exceptional drought and the Governor, a State agency, or unit of local government has imposed water conservation measures applicable to the area unless:
 - a. For covenants registered prior to October 1, 2008, the covenant specifically requires the irrigation of landscaping notwithstanding water conservation measures imposed by the Governor, a State agency, or unit of local government. The association may not fine or otherwise penalize an owner of land for violation of an irrigation requirement during a period of drought as designated under this subdivision, unless the covenant specifically authorizes fines or other penalties.
 - b. For covenants registered on or after October 1, 2008, the covenant must specifically state that any requirement to irrigate landscaping is suspended to the extent the requirement would otherwise be prohibited during any period in which the Governor, a State agency, or unit of local government has imposed water conservation measures. The association may not fine or otherwise penalize an owner of land for violation of an irrigation requirement during a drought designated under this subdivision, unless the covenant authorizes the fines or other penalties. This authorization must be written on the first page of the covenant in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the declarations of covenants.
- (2) For purposes of this section, the term "landscaping" includes lawns, trees, shrubbery, and other ornamental or decorative plants."

SECTION 19.(b) Article 3 of Chapter 47F of the General Statutes is amended by adding a new section to read:

"§ 47F-3-122. Irrigation of landscaping.

Notwithstanding any provision in any declaration of covenants, no requirement to irrigate landscaping shall be construed to:

- (1) Require the irrigation of landscaping, during any period in which the U.S. Drought Monitor, as defined in G.S. 143-350, or the Secretary of Environment and Natural Resources has designated an area in which the association is located as an area of severe, extreme, or exceptional drought and the Governor, a State agency, or unit of local government has imposed water conservation measures applicable to the area unless:
 - a. For declarations of covenants registered prior to October 1, 2008, the covenant specifically requires the irrigation of landscaping notwithstanding water conservation measures imposed by the Governor, a State agency, or unit of local government. The association may not fine or otherwise penalize an owner of land for violation of an irrigation requirement during a period of a drought as designated under this subdivision, unless the covenant specifically authorizes fines or other penalties.
 - b. For covenants registered on or after October 1, 2008, the covenant must specifically state that any requirement to irrigate landscaping is suspended to the extent the requirement would otherwise be prohibited during any period in which the Governor, a State agency, or unit of local government has imposed water conservation measures. The association may not fine or otherwise penalize an owner of land for violation of an irrigation requirement during a drought designated under this subdivision, unless the covenant authorizes the fines or other penalties. This authorization must be written on the first page of the covenant in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the declarations of covenants.
- (2) For purposes of this section, the term "landscaping" includes lawns, trees, shrubbery, and other ornamental or decorative plants."

SECTION 20. Nothing in this act shall be construed to expand or limit the authority of a unit of government or public water supply system to regulate water use from a well located outside of its jurisdiction, a well not connected to its water system, or any other private well.

SECTION 21. Sections 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, 20, and 21 of this act are effective when this act becomes law. Water Shortage Response Plans revised to comply with G.S. 143-355.2, as enacted by Section 5 of this act, shall be submitted no later than 1 July 2009. Subsection (c) of Section 14 of this act expires when rules adopted pursuant to subsection (b) of Section 14 of this act become effective. Sections 1, 2, and 19 of this act become effective 1 October 2008. Section 11 of this act becomes effective 1 December 2008 and applies to offenses committed on or after that date. Section 9 of this act becomes effective 1 July 2009.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 11:11 a.m. on the 31st day of July, 2008.

Session Law 2008-144**S.B. 1852**

AN ACT TO RESOLVE PROBLEMS WITH APPLYING PROPERTY TAX TO HEAVY EQUIPMENT RENTED ON A SHORT-TERM BASIS BY REPLACING THE PROPERTY TAX ON THIS EQUIPMENT WITH A TAX ON THE GROSS RECEIPTS FROM RENTING THE EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275 is amended by adding a new subdivision to read:

"§ **105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(42a) Heavy equipment on which a gross receipts tax may be imposed under G.S. 153A-156.1 and G.S. 160A-215.2."

SECTION 2. Article 7 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ **153A-156.1. Heavy equipment gross receipts tax in lieu of property tax.**

(a) Definitions. – The following definitions apply in this section:

(1) Heavy equipment. – Earthmoving, construction, or industrial equipment that is mobile, weighs at least 1,500 pounds, and meets any of the descriptions listed in this subdivision. The term includes an attachment for heavy equipment, regardless of the weight of the attachment.

a. It is a self-propelled vehicle that is not designed to be driven on a highway.

b. It is industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or a similar piece of industrial equipment.

(2) Short-term lease or rental. – Defined in G.S. 105-187.1.

(b) Tax Authorized. – A county may, by resolution, impose a tax at the rate of one and two-tenths percent (1.2%) on the gross receipts from the short-term lease or rental of heavy equipment by a person whose principal business is the short-term lease or rental of heavy equipment at retail. The heavy equipment subject to this tax is exempt from property tax under G.S. 105-275, and this tax provides an alternative to a property tax on the equipment. A person is not considered to be in the short-term lease or rental business if the majority of the person's lease and rental gross receipts are derived from leases and rentals to a person who is a related person under G.S. 105-163.010.

The tax authorized by this section applies to gross receipts that are subject to tax under G.S. 105-164.4(a)(2). Gross receipts from the short-term lease or rental of heavy equipment are subject to a tax imposed by a county under this section if the place of business from which the heavy equipment is delivered is located in the county.

(c) Payment. – A person whose principal business is the short-term lease or rental of heavy equipment is required to remit a tax imposed by this section to the county finance officer. The tax is payable quarterly and is due by the last day of the

month following the end of the quarter. The tax is intended to be added to the amount charged for the short-term lease or rental of heavy equipment and paid to the heavy equipment business by the person to whom the heavy equipment is leased or rented.

(d) Enforcement. – The penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes apply to a tax imposed under this section. The county finance officer has the same authority as the Secretary of Revenue in imposing these penalties and remedies.

(e) Effective Date. – A tax imposed under this section becomes effective on the date set in the resolution imposing the tax. The date must be the first day of a calendar quarter and may not be sooner than the first day of the calendar quarter that begins at least two months after the date the resolution is adopted.

(f) Repeal. – A county may, by resolution, repeal a tax imposed under this section. The repeal is effective on the date set in the resolution. The date must be the first day of a calendar quarter and may not be sooner than the first day of the calendar quarter that begins at least two months after the date the resolution is adopted."

SECTION 3. Article 9 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-215.2. Heavy equipment gross receipts tax in lieu of property tax.

(a) Definitions. – The following definitions apply in this section:

(1) Heavy equipment. – Defined in G.S. 153A-156.1.

(2) Short-term lease or rental. – Defined in G.S. 105-187.1.

(b) Tax Authorized. – A city may, by resolution, impose a tax at the rate of eight tenths percent (0.8%) on the gross receipts from the short-term lease or rental of heavy equipment by a person whose principal business is the short-term lease or rental of heavy equipment at retail. The heavy equipment subject to this tax is exempt from property tax under G.S. 105-275, and this tax provides an alternative to a property tax on the equipment. A person is not considered to be in the short-term lease or rental business if the majority of the person's lease and rental gross receipts are derived from leases and rentals to a person who is a related person under G.S. 105-163.010.

The tax authorized by this section applies to gross receipts that are subject to tax under G.S. 105-164.4(a)(2). Gross receipts from the short-term lease or rental of heavy equipment are subject to a tax imposed by a city under this section if the place of business from which the heavy equipment is delivered is located in the city.

(c) Payment. – A person whose principal business is the short-term lease or rental of heavy equipment is required to remit a tax imposed by this section to the city finance officer. The tax is payable quarterly and is due by the last day of the month following the end of the quarter. The tax is intended to be added to the amount charged for the short-term lease or rental of heavy equipment and paid to the heavy equipment business by the person to whom the heavy equipment is leased or rented.

(d) Enforcement. – The penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes apply to a tax imposed under this section. The city finance officer has the same authority as the Secretary of Revenue in imposing these penalties and remedies.

(e) Effective Date. – A tax imposed under this section becomes effective on the date set in the resolution imposing the tax. The date must be the first day of a calendar quarter and may not be sooner than the first day of the calendar quarter that begins at least two months after the date the resolution is adopted.

(f) Repeal. – A city may, by resolution, repeal a tax imposed under this section. The repeal is effective on the date set in the resolution. The date must be the first day of

a calendar quarter and may not be sooner than the first day of the calendar quarter that begins at least two months after the date the resolution is adopted."

SECTION 4. G.S. 105-259(b) reads as rewritten:

"§ 105-259. **Secrecy required of officials; penalty for violation.**

(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:

...

(5d) To provide the following information to a county or city on an annual basis, when the county or city needs the information for the administration of its local prepared food and beverages ~~tax or room occupancy tax~~, room occupancy tax, vehicle rental tax, or heavy equipment rental tax:

- a. The name, address, and identification number of retailers who collect the sales and use taxes imposed under Article 5 of this Chapter and may be engaged in a business subject to ~~a local prepared food and beverages tax or room occupancy tax~~ one or more of these local taxes.
- b. The name, address, and identification number of a retailer audited by the Department of Revenue regarding the sales and use taxes imposed under Article 5 of this Chapter, when the Department determines that the audit results may be of interest to the county or city in the administration of ~~its local prepared food and beverages tax or room occupancy tax~~ one or more of these local taxes.

...."

SECTION 5. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2009. The remainder of this act is effective when it becomes law. A tax imposed under G.S. 153A-156.1 or G.S. 160A-215.2, as enacted by this act, may not become effective before January 1, 2009.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 8:06 p.m. on the 2nd day of August, 2008.

Session Law 2008-145

S.B. 1957

AN ACT TO MODIFY THE TERRITORIAL JURISDICTION OF THE NORTH CAROLINA GENERAL ASSEMBLY SPECIAL POLICE THROUGHOUT THE STATE WHEN CONDUCTING OFFICIAL BUSINESS FOR THE PURPOSE OF PERFORMING ADVANCES AND PROTECTIVE DUTIES FOR MEMBERS, AND PROTECTIVE DUTIES AT SPECIAL SESSIONS, COMMITTEE MEETINGS, COMMISSION HEARINGS, AND STATE, REGIONAL, OR NATIONAL LEGISLATIVE CONFERENCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-32.2 reads as rewritten:

"§ 120-32.2. General Assembly ~~special police~~ Special Police.

(a) All sworn members of the General Assembly ~~special police~~ Special Police employed by the Legislative Services Office are special ~~policemen~~, police officers, and have all the powers of policemen of cities, within any of the following areas of jurisdiction, while on official duty:

- (1) Within those areas of the City of Raleigh and of the unincorporated parts of Wake County surrounded by the innermost right-of-way of Interstate 440.
- (2) In any part of the State:
 - a. While accompanying a member of the General Assembly who is conducting, or traveling to or from, his or her official duties.
 - b. While preparing for, or providing security to, a session of either or both houses of the General Assembly, or official events directly related to that session.
 - c. While performing advance work and providing security for the protection of legislative members, staff, and the public for any meeting of a study, standing, select, or joint select committee, or any commission meeting of the General Assembly, or any state, regional, or national meetings of legislative bodies or organizations representing legislative bodies, and while accompanying a member of the General Assembly to or from any event listed in this subdivision.

(b) General Assembly ~~special police~~ Special Police officers may arrest persons outside the areas described in subsection (a) of this section when the person arrested has committed a criminal offense within any of the areas, for which the officer could have arrested the person within that area, and the arrest is made during such person's immediate and continuous flight from that area.

(c) The General Assembly ~~special police~~ Special Police ~~has~~ officers have the exclusive authority and responsibility for enforcing the parking rules of the Legislative Services Commission."

SECTION 2. G.S. 120-32.3 reads as rewritten:

"§ 120-32.3. Oath of General Assembly ~~special police~~ Special Police officers.

Before exercising the duties of a special ~~policeman~~ police officer, each General Assembly ~~special police~~ Special Police officer shall take an oath before some officer empowered to administer oaths, and the oaths shall be filed with the Clerk of Superior Court of Wake County. The oath of office shall be as follows:

"State of North Carolina, Wake County.

"I, _____, do solemnly swear (or affirm) that I will well and truly execute the duties of General Assembly ~~special policeman~~ Special Police officer in the State Legislative Building and other buildings and grounds subject to the jurisdiction of the Legislative Services Commission and in other areas designated by law, according to the best of my skill and ability and according to law; and that I will use my best endeavors to enforce all rules and regulations of the Legislative Services Commission concerning use of those buildings and grounds and all laws of the State of North Carolina. So help me, God.

"Sworn and subscribed to before me, this the ____ day of _____, A.D. ____"

SECTION 3. Of the funds appropriated to the General Assembly in FY 2008-2009, the sum of twenty-five thousand dollars (\$25,000) shall be allocated to the

General Assembly for the purpose of conducting the Southern Legislative Conference to be held in Winston-Salem, Forsyth County, in 2009.

SECTION 4. Section 3 of this act becomes effective July 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 8:09 p.m. on the 2nd day of August, 2008.

Session Law 2008-146

S.B. 1878

AN ACT TO MODIFY THE SCHEDULE FOR GENERAL REAPPRAISALS OF REAL PROPERTY IN THE STATE TO REDUCE THE DISCREPANCY BETWEEN THE PROPERTY TAX VALUE OF PROPERTY AND ITS MARKET VALUE, TO MODIFY THE OWNERSHIP REQUIREMENTS OF PRESENT-USE VALUE PROPERTY TO REFLECT COMMON FORMS OF LAND OWNERSHIP, TO ALLOW PROPERTY TO REMAIN IN PRESENT-USE VALUE WHEN THE DEFERRED TAXES ARE PAID AT THE TIME OF TRANSFER AND THE NEW OWNER CONTINUES TO FARM THE PROPERTY, TO CLASSIFY LOW-INCOME HOUSING PROPERTY, TO EXCLUDE FROM PROPERTY TAX PRESCRIPTION DRUGS GIVEN AS FREE SAMPLES, TO EXCLUDE FROM PROPERTY TAX EIGHTY PERCENT OF THE APPRAISED VALUE OF A SOLAR ELECTRIC SYSTEM, AND TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO STUDY THE EFFECT THAT THIS ACT HAS ON STAFFING NEEDS OF THE DEPARTMENT OF REVENUE AND THE DEFINITION OF INCOME AS IT APPLIES TO THE HOMESTEAD EXCLUSION.

The General Assembly of North Carolina enacts:

PART I: REAPPRAISAL SCHEDULE

SECTION 1.1. G.S. 105-286 reads as rewritten:

"§ 105-286. **Time for general reappraisal of real property.**

(a) ~~Octennial Plan. — Unless the date shall be advanced as provided in subdivision (a)(2), below, each county of the State, as of January 1 of the year prescribed in the schedule set out in subdivision (a)(1), below, and every eighth year thereafter, shall reappraise all real property in accordance with the provisions of G.S. 105-283 and 105-317.~~ Octennial Cycle. — Each county must reappraise all real property in accordance with the provisions of G.S. 105-283 and G.S. 105-317 as of January 1 of the year set out in the following schedule and every eighth year thereafter, unless the county is required to advance the date under subdivision (2) of this section or chooses to advance the date under subdivision (3) of this section.

(1) Schedule of Initial Reappraisals.

Division One – 1972: Avery, Camden, Cherokee, Cleveland, Cumberland, Guilford, Harnett, Haywood, Lee, Montgomery, Northampton, and Robeson.

Division Two – 1973: Caldwell, Carteret, Columbus, Currituck, Davidson, Gaston, Greene, Hyde, Lenoir, Madison, Orange, Pamlico, Pitt, Richmond, Swain, Transylvania, and Washington. Division Three

– 1974: Ashe, Buncombe, Chowan, Franklin, Henderson, Hoke, Jones, Pasquotank, Rowan, and Stokes. Division Four – 1975: Alleghany, Bladen, Brunswick, Cabarrus, Catawba, Dare, Halifax, Macon, New Hanover, Surry, Tyrrell, and Yadkin. Division Five – 1976: Bertie, Caswell, Forsyth, Iredell, Jackson, Lincoln, Onslow, Person, Perquimans, Rutherford, Union, Vance, Wake, Wilson, and Yancey.

Division Six – 1977: Alamance, Durham, Edgecombe, Gates, Martin, Mitchell, Nash, Polk, Randolph, Stanly, Warren, and Wilkes.

Division Seven – 1978: Alexander, Anson, Beaufort, Clay, Craven, Davie, Duplin, and Granville.

Division Eight – 1979: Burke, Chatham, Graham, Hertford, Johnston, McDowell, Mecklenburg, Moore, Pender, Rockingham, Sampson, Scotland, Watauga, and Wayne.

- (2) ~~Advancing Scheduled Octennial Reappraisal. Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing. A copy of any such resolution shall be forwarded promptly to the Department of Revenue. If the scheduled date for reappraisal for any county is advanced as provided herein, real property in that county shall thereafter be reappraised every eighth year following the advanced date unless, in accordance with the provisions of this subdivision (a)(2), an earlier date shall be adopted by resolution of the board of county commissioners, in which event a new schedule of octennial reappraisals shall thereby be established for that county.~~ Mandatory Advancement. – A county whose population is 75,000 or greater according to the most recent annual population estimates certified to the Secretary by the State Budget Officer must conduct a reappraisal of real property when the county's sales assessment ratio determined under G.S. 105-289(h) is less than .85 or greater than 1.15, as indicated on the notice the county receives under G.S. 105-284. A reappraisal required under this subdivision must become effective no later than January 1 of the earlier of the following years:
- a. The third year following the year the county received the notice.
 - b. The eighth year following the year of the county's last reappraisal.
- (3) Optional Advancement. – A county may conduct a reappraisal of real property earlier than required by subdivision (1) or (2) of this section if the board of county commissioners adopts a resolution providing for advancement of the reappraisal. The resolution must designate the effective date of the advanced reappraisal and may designate a new reappraisal cycle that is more frequent than the octennial cycle set in subdivision (1) of this section. The board of county commissioners must promptly forward a copy of the resolution adopted under this subdivision to the Department of Revenue. A more frequent reappraisal cycle designated in a resolution adopted under this subdivision continues in effect after a mandatory reappraisal required under subdivision (2) of this section unless the board of county

commissioners adopts another resolution that designates a different date for the county's next reappraisal.

~~(b) Fourth Year Horizontal Adjustments. As of January 1 of the fourth year following a reappraisal of real property conducted under the provisions of subsection (a), above, each county shall review the appraised values of all real property and determine whether changes should be made to bring those values into line with their current true value. If it is determined that the appraised value of all real property or of defined types or categories of real property require such adjustment, the assessor shall revise the values accordingly by horizontal adjustments rather than by actual appraisal of individual properties: That is, by uniform application of percentages of increase or reduction to the appraised values of properties within defined types or categories or within defined geographic areas of the county.~~

~~(c) Value to Be Assigned Real Property When Not Subject to Appraisal. In years in which real property within a county is not subject to appraisal or reappraisal under subsections (a) or (b), above, or under G.S. 105-287, it shall be listed at the value assigned when last appraised under this section or under G.S. 105-287."~~

SECTION 1.2. G.S. 105-287 reads as rewritten:

"§ 105-287. Changing appraised value of real property in years in which general reappraisal or horizontal adjustment is not made.

(a) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not ~~made,~~ made under G.S. 105-286, the property shall be listed at the value assigned when last appraised unless the value is changed in accordance with this section. ~~the~~ The assessor shall increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in the property's value resulting from one or more of the reasons listed in this subsection. ~~The reason necessitating a change in the property's value need not be under the control of or at the request of the owner of the affected property.~~ following reasons:

- (1) Correct a clerical or mathematical error.
- (2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~ reappraisal.
- (2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.
- (2b) Recognize an increase or decrease in the value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.
- (2c) Recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property.
- (3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b).

(b) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor may not increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in value caused by:

- (1) Normal, physical depreciation of improvements;
- (2) Inflation, deflation, or other economic changes affecting the county in general; or

- (3) Betterments to the property made by:
- a. Repainting buildings or other structures;
 - b. Terracing or other methods of soil conservation;
 - c. Landscape gardening;
 - d. Protecting forests against fire; or
 - e. Impounding water on marshland for non-commercial purposes to preserve or enhance the natural habitat of wildlife.

(c) An increase or decrease in the appraised value of real property authorized by this section shall be made in accordance with the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment~~ reappraisal. An increase or decrease in appraised value made under this section is effective as of January 1 of the year in which it is made and is not retroactive. The reason for an increase or decrease in appraised value made under this section need not be under the control of or at the request of the owner of the affected property. This section does not modify or restrict the provisions of G.S. 105-312 concerning the appraisal of discovered property.

(d) Notwithstanding subsection (a), if a tract of land has been subdivided into lots and more than five acres of the tract remain unsold by the owner of the tract, the assessor may appraise the unsold portion as land acreage rather than as lots. A tract is considered subdivided into lots when the lots are located on streets laid out and open for travel and the lots have been sold or offered for sale as lots since the last appraisal of the property."

SECTION 1.3. G.S. 153A-150 reads as rewritten:

"§ 153A-150. Reserve for ~~octennial~~ reappraisal.

Before the beginning of the fiscal year immediately following the effective date of ~~an octennial~~ a reappraisal of real property conducted as required by G.S. 105-286, the county budget officer shall present to the board of commissioners ~~an eight-year~~ a budget for financing the cost of the next ~~octennial~~ reappraisal. The budget shall estimate the cost of the reappraisal and shall propose a plan for raising the necessary funds in ~~eight~~ eight annual installments during the ~~next fiscal years, intervening years between reappraisals,~~ intervening years between reappraisals, with all installments as nearly uniform as practicable. The board shall consider this budget, making any amendments to the budget it deems advisable, and shall adopt a resolution establishing a special reserve fund for the next ~~octennial~~ reappraisal. In the budget ordinance of the first fiscal year of the plan, the board of commissioners shall appropriate to the special reappraisal reserve fund the amount set out in the plan for the first year's installment. When the county budget for each succeeding fiscal year is in preparation, the board shall review the ~~eight-year~~ reappraisal budget with the budget officer and shall amend it, if necessary, so that it will reflect the probable cost at that time of the reappraisal and will produce the necessary funds at the end of the ~~eight-year~~ intervening period. In the budget ordinance for each succeeding fiscal year, the board shall appropriate to the special reappraisal reserve fund the amount set out in the plan as due in that year.

Moneys appropriated to the special reappraisal reserve fund shall not be available or expended for any purpose other than the reappraisal of real property required by G.S. 105-286, except that the funds may be deposited at interest or invested as permitted by G.S. 159-30. If there is a fund balance in the reserve fund following payment for the required reappraisal, it shall be retained in the fund for use in financing the next required reappraisal.

Within 10 days after the adoption of each annual budget ordinance, the county finance officer shall report to the Department of Revenue, on forms to be supplied by the Department, the terms of the county's ~~eight-year~~ reappraisal budget, the current condition of the special reappraisal reserve fund, and the amount appropriated to the reserve fund in the current fiscal year."

SECTION 1.4. This section becomes effective July 1, 2009, and mandatory advancements in G.S. 105-286(a)(2), as amended by this section, apply to notices sent under G.S. 105-284(c) on or after that date.

PART II: PRESENT-USE VALUE PROPERTY CHANGES

SECTION 2.1. 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. Land used to grow horticultural and agricultural crops on a rotating basis or where the horticultural crop is set out or planted and harvested within one growing season, may be treated as agricultural land as described in subdivision (1) of this section when there is determined to be no significant difference in the cash rental rates for the 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.~~ An individual.
 - 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 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.~~ that meets all of the following conditions:
 1. Its principal business is farming agricultural land, horticultural land, or forestland.
 2. All of its members are, directly or indirectly, individuals who are actively engaged in farming agricultural land, horticultural land, or forestland or a relative of one of the

- individuals who is actively engaged. An individual is indirectly a member of a business entity that owns the land if the individual is a member of a business entity or a beneficiary of a trust that is part of the ownership structure of the business entity that owns the land.
3. It is not a corporation whose shares are publicly traded, and none of its members are corporations whose shares are publicly traded.
 4. If it leases the land, all of its members are individuals and are relatives. Under this condition, 'principal business' and 'actively engaged' include leasing.
- 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.~~ It was created by an individual who owned the land and transferred the land to the trust.
 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.~~ All of its beneficiaries are, directly or indirectly, individuals who are the creator of the trust or a relative of the creator. An individual is indirectly a beneficiary of a trust that owns the land if the individual is a beneficiary of another trust or a member of a business entity that has a beneficial interest in the trust that owns the land.
- d. A testamentary trust that meets all of the following conditions:
1. ~~It was created by a natural person~~ an individual who transferred to the trust land that qualified in that ~~person's~~ individual's hands for classification under G.S. 105-277.3.
 2. ~~At the time date of the creator's death, the creator had no relatives as defined in this section as of the date of death.~~ relatives.
 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.~~ would qualify as an owner if the tenant were the sole owner. 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,~~ an individual, and the ownership requirements of G.S. 105-277.3(b1) apply to each tenant in common who is a ~~business entity.~~ entity or a trust.

- (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~~ an individual 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 and be of the same type of classification. 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)."

SECTION 2.2. G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.

(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

- (1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at

least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

- (2) Horticultural land. – Individually owned horticultural land consisting of one or more tracts, one of which consists of at least five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have met the applicable minimum gross income requirement. Land in actual production includes land under improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products. Land that has been used to produce evergreens intended for use as Christmas trees must have met the minimum gross income requirements established by the Department of Revenue for the land. All other horticultural land must have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the horticultural products produced from the land and any payments received under a governmental soil conservation or land retirement program.
- (3) Forestland. – Individually owned forestland consisting of one or more tracts, one of which consists of at least 20 acres that are in actual production and are not included in a farm unit.

(b) ~~Natural Person~~Individual Ownership Requirements. – In order to come within a classification described in subsection (a) of this section, ~~the land must, if owned by a natural person,~~an individual must also satisfy one of the following conditions:

- (1) It is the owner's place of residence.
- (2) It has been owned by the current owner or a relative of the current owner for the four years preceding January 1 of the year for which the benefit of this section is claimed.
- (3) At the time of transfer to the current owner, it qualified for classification in the hands of a business entity or trust that transferred the land to the current owner who was a member of the business entity or a beneficiary of the trust, as appropriate.

(b1) Entity Ownership Requirements. – In order to come within a classification described in subsection (a) of this section, ~~the land must, if owned by a business entity or trust,~~trust must have been owned by the business entity or trust or by one or more of its members or creators, respectively, for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed.

(b2) ~~Exception~~Exceptions to Ownership Requirements. – Notwithstanding the provisions of subsections (b) and (b1) of this section, land may qualify for classification in the hands of the new owner if all of the conditions listed in either subdivision of this subsection are met, even if the new owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the land.

- (1) ~~Exception for assumption of deferred liability.~~Continued use. – If the land qualifies for classification in the hands of the new owner under the provisions of this subdivision, then ~~the any~~ deferred taxes remain a lien on the land under G.S. 105-277.4(c), the new owner becomes

liable for the deferred taxes, and the deferred taxes become payable if the land fails to meet any other condition or requirement for classification. Land qualifies for classification in the hands of the new owner if all of the following conditions are met:

- a. The land was appraised at its present use value at the time title to the land passed to the new owner.
- b. ~~At the time title to the land passed to the new owner, the~~The new owner acquires the land ~~for the purposes of~~ and continues to use the land for the ~~purposes~~purpose for which it was classified under subsection (a) of this section while under previous ownership.
- c. The new owner has timely filed an application as required by G.S. 105-277.4(a) and has certified that the new owner accepts liability for ~~the any~~ deferred taxes and intends to continue the present use of the land.

- (2) ~~Exception for expansion~~Expansion of existing unit. – ~~If deferred liability is not assumed under subdivision (1) of this subsection, the~~Land qualifies for classification in the hands of the new owner if, at the time title passed to the new owner, the land was not appraised at its present-use value but was being used for the same purpose and was eligible for appraisal at its present-use value as other land already owned by the new owner and classified under subsection (a) of this section. The new owner must timely file an application as required by G.S. 105-277.4(a).

(c) Repealed by Session Laws 1995, c. 454, s. 2.

(d) Exception for Conservation Reserve Program. – Land enrolled in the federal Conservation Reserve Program authorized by 16 U.S.C. Chapter 58 is considered to be in actual production, and income derived from participation in the federal Conservation Reserve Program may be used in meeting the minimum gross income requirements of this section either separately or in combination with income from actual production. Land enrolled in the federal Conservation Reserve Program must be assessed as agricultural land if it is planted in vegetation other than trees, or as forestland if it is planted in trees.

(d1) Exception for Easements on Qualified Conservation Lands Previously Appraised at Use Value. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this section. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to an enforceable conservation easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. The exception provided in this subsection applies only to that part of the property that is subject to the easement.

(e) Exception for Turkey Disease. – Agricultural land that meets all of the following conditions is considered to be in actual production and to meet the minimum gross income requirements:

- (1) The land was in actual production in turkey growing within the preceding two years and qualified for present use value treatment while it was in actual production.
- (2) The land was taken out of actual production in turkey growing solely for health and safety considerations due to the presence of Poultry Enteritis Mortality Syndrome among turkeys in the same county or a neighboring county.
- (3) The land is otherwise eligible for present use value treatment.

(f) Sound Management Program for Agricultural Land and Horticultural Land. – If the property owner demonstrates any one of the following factors with respect to agricultural land or horticultural land, then the land is operated under a sound management program:

- (1) Enrollment in and compliance with an agency-administered and approved farm management plan.
- (2) Compliance with a set of best management practices.
- (3) Compliance with a minimum gross income per acre test.
- (4) Evidence of net income from the farm operation.
- (5) Evidence that farming is the farm operator's principal source of income.
- (6) Certification by a recognized agricultural or horticultural agency within the county that the land is operated under a sound management program.

Operation under a sound management program may also be demonstrated by evidence of other similar factors. As long as a farm operator meets the sound management requirements, it is irrelevant whether the property owner received income or rent from the farm operator.

(g) Sound Management Program for Forestland. – If the owner of forestland demonstrates that the forestland complies with a written sound forest management plan for the production and sale of forest products, then the forestland is operated under a sound management program."

SECTION 2.3. This section is effective for taxes imposed for taxable years beginning on or after July 1, 2008.

PART III: LOW-INCOME HOUSING PROPERTY

SECTION 3.1. Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-277.15. Taxation of low-income housing property.

A North Carolina low-income housing development to which the North Carolina Housing Finance Agency allocated a federal tax credit under section 42 of the Code is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section. The assessor must use the income approach as the method of valuation for property classified under this section and must take rent restrictions that apply to the property into consideration in determining the income attributable to the property. The assessor may not consider income tax credits received under section 42 of the Code or under G.S. 105-129.42 in determining the income attributable to the property."

SECTION 3.2. This section is effective for taxes imposed for taxable years beginning on or after July 1, 2009.

PART IV: PRESCRIPTION DRUGS GIVEN AS FREE SAMPLES

SECTION 4.1. G.S. 105-275 is amended by adding a new subdivision to read:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

- ...
- (44) Free samples of drugs that are required by federal law to be dispensed only on prescription and are given to physicians and other medical practitioners to dispense free of charge in the course of their practice."

SECTION 4.2. This section is effective for taxable years beginning on or after July 1, 2008.

PART V: SOLAR ENERGY ELECTRIC SYSTEMS

SECTION 5.1. G.S. 105-275 is amended by adding a new subdivision to read:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

- ...
- (45) Eighty percent (80%) of the appraised value of a solar energy electric system. For purposes of this subdivision, the term 'solar energy electric system' means all equipment used directly and exclusively for the conversion of solar energy to electricity."

SECTION 5.2. This section is effective for taxable years beginning on or after July 1, 2008.

PART VI: STUDY

SECTION 6. The Revenue Laws Study Committee must study the following:

- (1) The effect of PART I of this act and determine whether new positions are needed to perform sales assessment ratio studies in additional counties each year and to perform other functions related to this act.
- (2) The definition of income as it applies to the homestead exclusion.

PART VII: EFFECTIVE DATE

SECTION 7. 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, 2008.

Became law upon approval of the Governor at 8:17 p.m. on the 2nd day of August, 2008.

Session Law 2008-147

S.B. 2075

AN ACT TO CLARIFY QUALIFICATIONS FOR THE EXCEPTION FOR
MULTIJURISDICTIONAL INDUSTRIAL PARKS TIER DESIGNATION AND

TO PROVIDE FOR A TEMPORARY INCREASE IN THE CAP ON AMOUNTS COMMITTED UNDER THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-437.08(h) reads as rewritten:

"(h) Exception for Certain Multijurisdictional Industrial Parks. – An eligible industrial park created by interlocal agreement under ~~G.S. 158-7.4~~G.S. 158-7.4, and parcels of land located within the industrial park that are subsequently transferred and used for industrial or commercial purposes authorized for cities and counties under G.S. 158-7.1, ~~has~~ have the lowest development tier designation of the designations of the counties in which ~~it is~~ they are located if all of the following conditions are satisfied:

- (1) The industrial park is located, at one or more sites, in three or more contiguous counties.
- (2) At least one of the counties in which the industrial park is located is a development tier one area.
- (3) The industrial park is owned by three or more units of local government or a nonprofit corporation owned or controlled by three or more units of local government.
- (4) In each county in which the industrial park is located, the park has at least 250 developable acres. A transfer of acreage that reduces the number of developable acres below 250 developable acres in a county does not affect an industrial park's eligibility under this subsection if the transfer is to an owner who uses or develops the acreage for industrial or commercial purposes authorized for cities and counties under G.S. 158-7.1. For the purposes of this subdivision, "developable acres" includes acreage that is owned directly by the industrial park or its owners or that is the subject of a development agreement between the industrial park or its owners and a third-party owner.
- (5) The total population of all of the counties in which the industrial park is located is less than 200,000.
- (6) In each county in which the industrial park is located, at least sixteen and eight-tenths percent (16.8%) of the population was Medicaid eligible for the 2003-2004 fiscal year based on 2003 population estimates."

SECTION 2. Notwithstanding G.S. 143B-437.52(c), the maximum amount of total annual liability for grants for agreements entered into in calendar year 2008 under the Job Development Investment Grant Program, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed twenty-five million dollars (\$25,000,000).

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

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 8:19 p.m. on the 2nd day of August, 2008.

Session Law 2008-148

S.B. 1716

AN ACT TO CLARIFY THE DISTRIBUTION OF SUPPLEMENTAL PEG SUPPORT FUNDING AND TO CLARIFY THAT THE SERVICE AREA OF A CITY INCLUDES ANY AREA SUBSEQUENTLY ANNEXED BY THAT CITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.44I(b) reads as rewritten:

"(b) Supplemental PEG Channel Support. – G.S. 105-164.44J sets out the requirements for receipt by a county or city of supplemental PEG channel support funds distributed under this subsection. The Secretary must include the applicable amount of supplemental PEG channel support in each quarterly distribution to a county or city. The amount to include is one-fourth of twenty-five thousand dollars (\$25,000) for each qualifying PEG channel ~~operated~~ certified by the county or ~~city~~ city under G.S. 105-164.44J. A county or city may not receive PEG channel support under this subsection for more than three qualifying PEG channels.

The amount of money distributed under this subsection may not exceed two million dollars (\$2,000,000) in a fiscal ~~year~~ year, plus the amount of any funds returned to the Secretary in the prior fiscal year under G.S. 105-164.44J(d). If the amount to be distributed for qualifying PEG channels in a fiscal year would otherwise exceed this maximum amount, the Secretary must proportionately reduce the applicable amount distributable for each PEG channel. If the amount to be distributed for qualifying PEG channels in a fiscal year is less than ~~two million dollars (\$2,000,000),~~ this maximum amount, the Secretary must credit the excess amount to the PEG Channel Fund established in G.S. 66-359. For purposes of this subsection, the term 'qualifying PEG channel' has the same meaning as in G.S. 105-164.44J.

~~A county or city must certify to the Secretary by July 15 of each year the number of qualifying PEG channels it operates. A qualifying PEG channel is one that meets the programming requirements under G.S. 66-357(d). A county or city may not receive PEG channel support under this subsection for more than three qualifying PEG channels.~~

~~The amount included under this subsection in a distribution to a county or city is intended to supplement the PEG channel support available in the amount distributed under this section. The money distributed to a county or city under this subsection must be used by it for the operation and support of PEG channels. For purposes of this subsection, the term "PEG channel" has the same meaning as in G.S. 66-350."~~

SECTION 2. G.S. 105-164.44I(e) reads as rewritten:

"(e) Use of Proceeds. – A county or city that imposed subscriber fees during the first six months of the 2006-2007 fiscal year must use a portion of the funds distributed to it each fiscal year under subsections (c) and (d) of this section for the operation and support of PEG channels. The amount of funds that must be used for PEG channel operation and support in fiscal year 2006-2007 is two times the amount of subscriber fee revenue the county or city certified to the Secretary that it imposed during the first six months of the 2006-2007 fiscal year. The amount of funds that must be used for PEG channel operation and support in subsequent fiscal years is the same proportionate amount of the funds that were distributed under subsections (c) and (d) of this section and used for this purpose in fiscal year 2006-2007. ~~A~~

A county or city that used part of its franchise tax revenue in fiscal year 2005-2006 for the operation and support of PEG channels or a publicly owned and operated

television station must use the funds distributed to it under subsections (c) and (d) of this section to continue the same level of support for the PEG channels and public stations. The remainder of the distribution may be used for any public purpose."

SECTION 3. Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.44J. Supplemental PEG channel support.

- (a) Definitions. – The following definitions apply in this section:
- (1) Existing agreement. – Defined in G.S. 66-350.
 - (2) PEG channel. – Defined in G.S. 66-350.
 - (3) PEG channel operator. – An entity that does one or more of the following:
 - a. Produces programming for delivery on a PEG channel.
 - b. Provides facilities for the production of programming or playback of programming for delivery on a PEG channel.
 - (4) Qualifying PEG channel. – A PEG channel that operates for at least 90 days during a fiscal year and that meets all of the following programming requirements:
 - a. It delivers at least eight hours of scheduled programming a day.
 - b. It delivers at least six hours and 45 minutes of scheduled, non-character-generated programming a day.
 - c. Its programming content does not repeat more than fifteen percent (15%) of the programming content on any other PEG channel provided to the same county or city.
 - (5) Supplemental PEG channel support funds. – The amount distributed to a county or city under G.S. 105-164.44I(b).
- (b) Certification. – A county or city must certify to the Secretary by July 15 of each year all of the qualifying PEG channels provided for its use during the preceding fiscal year by a cable service provider under either G.S. 66-357 or an existing agreement. The certification must include all of the following:
- (1) An identification of each channel as a public, an education, or a government channel.
 - (2) The name and signature of the PEG channel operator for each channel. If a qualifying PEG channel has more than one PEG channel operator, the county or city must include the name of each operator of the PEG channel. A PEG channel operator may be included on the certification of only one county or city for each type of PEG channel that it operates.
 - (3) Any other information required by the Secretary.
- (c) Use of Funds. – A county or city must use the supplemental PEG channel support funds distributed to it for the operation and support of each of the qualifying PEG channels it certifies by allocating the amount it receives equally among each of the qualifying PEG channels. A county or city must distribute the supplemental PEG channel support funds to the PEG channel operator of the qualifying PEG channel within 30 days of its receipt of the supplemental PEG channel support funds from the Department, or as specified in an interlocal agreement. If a qualifying PEG channel has more than one PEG channel operator, the county or city must distribute the amount allocated for that PEG channel equally to each PEG channel operator, or as specified in an interlocal agreement.

(d) Errors in Certification. – If a county or city determines that it certified a PEG channel in error, the county or city must submit a revised certification to the Secretary, and the county or city must return all supplemental PEG channel support funds distributed to it as a result of the error. The Secretary must add the funds returned to the total amount of supplemental PEG channel support funds to be allocated in the following fiscal year."

SECTION 4. Notwithstanding G.S. 105-164.44J(b), as enacted by this act, certifications of qualifying PEG channels for use in distributing fiscal year 2008-2009 supplemental PEG channel support funds may be submitted to the Secretary on or before September 15, 2008. The distribution of supplemental PEG channel support funds made within 75 days after June 30, 2008, must be based on the qualifying PEG channel certification in effect for the prior distribution.

SECTION 5. G.S. 66-352(a) reads as rewritten:

"(a) Notice of Franchise. – A person who intends to provide cable service over a cable system in an area must file a notice of franchise with the Secretary before providing the service. A person who files a notice of franchise must pay a fee in the amount set in G.S. 57C-1-22 for filing articles of organization.

A notice of franchise is effective when it is filed with the Secretary. The notice of franchise must include all of the following:

- (1) The applicant's name, principal place of business, mailing address, physical address, telephone number, and e-mail address.
- (2) A description and map of the area to be served. If the description includes the area within the boundaries of a city, the area to be served is considered to include any area that is subsequently annexed to the city unless the notice limits the area to be served to the boundaries of the city on the effective date of the notice.
- (3) A list of each county and city in which the described service area is located, in whole or in part.
- (4) A schedule indicating when service is expected to be offered in the service area."

SECTION 6. This act is effective when it becomes law. Section 5 of this act applies to notices of franchise that are in effect on the effective date of this act or become effective on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 8:24 p.m. on the 2nd day of August, 2008.

Session Law 2008-149

S.B. 1681

AN ACT TO REQUIRE STATE-CONTROLLED PASSENGER-CARRYING VEHICLES TO BE SMOKE-FREE; AND TO AUTHORIZE LOCAL GOVERNMENTS TO REQUIRE LOCAL GOVERNMENT-CONTROLLED VEHICLES TO BE SMOKE-FREE, AS RECOMMENDED BY THE JUSTUS-WARREN HEART DISEASE AND STROKE PREVENTION TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-491 reads as rewritten:

"§ 130A-491. Legislative intent.

It is the intent of the General Assembly to protect the health of individuals working in or visiting State government buildings from the risks related to secondhand smoke. It is further the intent of the General Assembly to protect the health of individuals driving or riding in State-controlled passenger-carrying vehicles assigned permanently or temporarily to State employees or State agencies or institutions for official State business."

SECTION 2. G.S. 130A-492 reads as rewritten:

"§ 130A-492. Definitions.

The following definitions apply in this Article:

- (5) "Local vehicle". – A passenger-carrying vehicle owned, leased, or otherwise controlled by local government and assigned permanently or temporarily by local government to local government employees, agencies, institutions, or facilities for official local government business.
- ~~(4)~~(8) "Smoking". – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.
- ~~(2)~~(9) "State government". – The political unit for the State of North Carolina, including all agencies of the executive, judicial, and legislative branches of government.
- ~~(3)~~(10) "State government building". – A building owned, leased as lessor, or the area leased as lessee and occupied by State government.
- (11) "State vehicle". – A passenger-carrying vehicle owned, leased, or otherwise controlled by the State and assigned permanently or temporarily to a State employee or State agency or institution for official State business."

SECTION 3. G.S. 130A-493 reads as rewritten:

"§ 130A-493. Smoking in State government buildings and State vehicles prohibited.

(a) Notwithstanding Article 64 of Chapter 143 of the General Statutes pertaining to State-controlled buildings, smoking is prohibited inside State government buildings as provided in this section. As to smoking rooms in residence halls that were permitted by G.S. 143-597(a)(6), this Article becomes effective beginning with the 2008-2009 academic year.

(b) Smoking is permitted inside State government buildings that are used for medical or scientific research to the extent that smoking is an integral part of the research. Smoking permitted under this subsection shall be confined to the area where the research is being conducted.

(c) The individual in charge of the State government building or the individual's designee shall post signs in conspicuous areas of the building. The signs shall state that "smoking is prohibited" and may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. In addition, in any State psychiatric hospital, the person who owns, manages, operates, or otherwise controls the hospital shall:

- (1) Direct any person who is smoking inside the facility to extinguish the lighted smoking product.
- (2) Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

(c1) Smoking is prohibited inside State vehicles. The individual or the individual's designee in charge of assigning the vehicle shall place one or more signs in conspicuous areas of the vehicle. The signs shall state that "smoking is prohibited" and may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. If the vehicle is used for undercover law enforcement operations, a sign is not required to be placed in the vehicle as provided in this subsection.

(d) Notwithstanding G.S. 130A-25, a violation of Article 23 of this Chapter shall not be punishable as a criminal violation."

SECTION 4. G.S. 130A-498 reads as rewritten:

"§ 130A-498. **Local governments may restrict smoking in public places.**

(a) Notwithstanding any other provision of Article 64 of Chapter 143 of the General Statutes to the contrary, a local government may adopt an ordinance, law, or rule restricting smoking in accordance with subsection (b) of this section.

(b) Any local ordinance, law, or rule authorized under this section may restrict smoking only in:

- (1) Buildings owned, leased as lessor, or the area leased as lessee and occupied by local government;
- (2) Building and grounds wherein local health departments and departments of social services are housed;
- (3) Public schools, school facilities, on school campuses, at school-related or school-sponsored events, in or on other school property, public school buses, or at day care centers. Such restrictions may be imposed by local school boards having ownership or jurisdiction over the building, campus, event, property, or vehicle; ~~and~~
- (4) Any place on a public transportation vehicle owned or leased by local government and used by the ~~public~~-public; and
- (5) Any place in a local vehicle.

(c) As used in this Part, "local government" means any local political subdivision of this State, any airport authority, or any authority or body created by any ordinance, joint resolution, or rules of any such entity.

(d) As used in this Part, "grounds" means the area located within 50 linear feet of a building wherein a local health department or a local department of social services is housed.

(e) A county ordinance adopted under this section is subject to the provisions of G.S. 153A-122."

SECTION 5. This act becomes effective January 1, 2009.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 8:26 p.m. on the 2nd day of August, 2008.

Session Law 2008-150

S.B. 1263

AN ACT TO ESTABLISH THE JOINT LEGISLATIVE ELECTIONS OVERSIGHT COMMITTEE; TO CLARIFY THE NEW ELECTION STATUTE AS IT APPLIES TO MULTISEAT RACES; TO REAUTHORIZE THE PILOT PROGRAM FOR INSTANT RUNOFF VOTING; TO AMEND THE STATUTE CONCERNING NOTICE OF AN ELECTION-PROTEST ORDER AND THE TIMING OF

APPEAL; TO CLARIFY THE MEANING OF THE TERM "ELECTION" FOR PURPOSES OF THE THIRTY-DAY RESIDENCE REQUIREMENT FOR VOTING; TO RESPOND TO THE DECISION OF THE 4TH CIRCUIT U.S. COURT OF APPEALS IN NORTH CAROLINA RIGHT TO LIFE V. LEAKE; TO REPLACE THE TWENTY-ONE-DAY CONTRIBUTION EMBARGO IN THE JUDICIAL PUBLIC CAMPAIGN PROGRAM WITH AN EXPEDITED RELEASE OF MATCHING FUNDS; TO EXEMPT CERTAIN SALES OF GOODS OR SERVICES BY POLITICAL PARTY EXECUTIVE COMMITTEES FROM CERTAIN CONTRIBUTION REQUIREMENTS; TO REQUIRE ALL TREASURERS TO REPORT ACCORDING TO THE MUNICIPAL CAMPAIGN REPORTING SCHEDULE IF THEIR CANDIDATES OR COMMITTEES PARTICIPATE IN MUNICIPAL ELECTIONS; TO PROHIBIT COMMINGLING OF CAMPAIGN FUNDS; TO REQUIRE THAT NEW-PARTY CANDIDATES BE REGISTERED WITH THE PARTY; TO AMEND THE REPORTING REQUIREMENT FOR MATCHING FUNDS IN PUBLIC FINANCING PROGRAMS; TO LIMIT THE PROHIBITION IN THE ELECTIONEERING COMMUNICATIONS STATUTES; AND TO REQUIRE FORTY-EIGHT-HOUR REPORTS FOR ANY CONTRIBUTION OF LATE CONTRIBUTIONS OF MORE THAN ONE THOUSAND DOLLARS, REGARDLESS OF THE SOURCE; AND TO MAKE RELATED CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 12P.

"Joint Legislative Elections Oversight Committee.

"§ 120-70.140. Creation and membership of Joint Legislative Elections Oversight Committee.

The Joint Legislative Elections Oversight Committee is established. The Committee consists of 18 members as follows:

- (1) Nine members of the Senate appointed by the President Pro Tempore of the Senate. The President Pro Tempore shall appoint members proportionally according to the partisan composition of the Senate.
- (2) Nine members of the House of Representatives appointed by the Speaker of the House of Representatives. The Speaker shall appoint members proportionally according to the partisan composition of the House.

Terms on the Committee are for two years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment and end on January 15 of the next odd-numbered year. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until his or her successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"§ 120-70.141. Purpose and powers of Committee.

(a) The Joint Legislative Elections Oversight Committee shall examine, on a continuing basis, election administration and campaign finance regulation in North Carolina, in order to make ongoing recommendations to the General Assembly on ways

to improve elections administration and campaign finance regulation. In this examination, the Committee shall do the following:

- (1) Study the budgets, programs, and policies of the State Board of Elections and the county boards of elections to determine ways in which the General Assembly may improve election administration and campaign finance regulation.
- (2) Examine election statutes and court decisions to determine any legislative changes that are needed to improve election administration and campaign finance regulation.
- (3) Study other states' initiatives in election administration and campaign finance regulation to provide an ongoing commentary to the General Assembly on these initiatives and to make recommendations for implementing similar initiatives in North Carolina; and
- (4) Study any other election matters that the Committee considers necessary to fulfill its mandate.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"§ 120-70.142. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Elections Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is 10 members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

"§ 120-70.143. Additional powers.

The Joint Legislative Elections Oversight Committee, while in discharge of official duties, shall have access to any paper or document and may compel the attendance of any State official or employee before the Committee or secure any evidence under G.S. 120-19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Committee as if it were a joint committee of the General Assembly."

SECTION 1.(b) Expenses of the Joint Legislative Elections Oversight Committee shall be paid out of funds appropriated to the General Assembly, with the approval of the Legislative Services Officer.

SECTION 1.(c) This section is effective when it becomes law.

SECTION 2.(a) G.S. 163-182.13(e) reads as rewritten:

"(e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on the official ballot in the original election shall be listed in the same order on the official ballot for the new election, except in either of the following:

- (1) If a candidate dies or otherwise becomes ineligible between the time of the original election and the new election, that candidate may be replaced in the same manner as if the vacancy occurred before the original election.
- (2) If the election is for a multiseat office, and the irregularities could not have affected the election of one or more of the ~~leading vote getters, candidates,~~ the new election, upon agreement of at least four members of the State Board, may be held among only those ~~remaining~~ candidates whose election could have been affected by the irregularities."

SECTION 2.(b) This section is effective when it becomes law.

SECTION 3.(a) The State Board of Elections is authorized to select elections for offices of local government in which to use instant runoff voting in up to 10 local jurisdictions in each of the following years: 2009, 2010, and 2011. The selection of jurisdictions and administration of instant runoff voting shall follow the provisions of Section 1(a) of Session Law 2006-192, except that the local governing board that is the subject of the election must approve participation in the pilot and also must agree to cooperate with the county board of elections and the Board in the development and implementation of a plan to educate candidates and voters about how to use the runoff voting method. In a multiseat contest, the Board shall modify the method used for instant runoff voting in single-seat contests to apply its essential principles suitably to that election. In the case of a board of education election where the "local governing board" must be asked to authorize instant runoff voting because nonpartisan plurality elections are normally used, the "local governing board" is the board of education itself. If instant runoff voting is used in place of the nonpartisan election and runoff method as described in G.S. 163-293, the county board of elections, with the approval of the local governing board, may hold the election on the first Tuesday after the first Monday in November. The State Board of Elections, in consultation with the School of Government at the University of North Carolina, shall by January 1, 2009, develop for the pilot program authorized in this section goals, standards consistent with general election law, and criteria for implementation and evaluation. The pilot program shall be conducted according to those goals, standards, and criteria.

SECTION 3.(b) This section is effective when it becomes law.

SECTION 4.(a) G.S. 163-182.14 reads as rewritten:

"§ 163-182.14. Appeal of a final decision to superior court; appeal to the General Assembly or a house thereof.

(a) Final Decision. – A copy of the final decision of the State Board of Elections on an election protest shall be served on the parties personally or through delivery by certified mail, U.S. mail or a designated delivery service authorized under 26 U.S.C. § 7502(f)(2) if that delivery provides a record of the date and time of delivery to the address provided by the party. A decision to order a new election is considered a final decision for purposes of seeking review of the decision.

(b) Timing of Right of Appeal. – Except in the case of a general or special election to either house of the General Assembly or to an office established by Article

III of the Constitution, an aggrieved party has the right to appeal the final decision to the Superior Court of Wake County within 10 days of the date of service.

After the decision by the State Board of Elections has been served on the parties, the certification of nomination or election or the results of the referendum shall issue pursuant to G.S. 163-182.15 unless an appealing party obtains a stay of the certification from the Superior Court of Wake County within 10 days after the date of service. The court shall not issue a stay of certification unless the petitioner shows the court that the petitioner has appealed the decision of the State Board of Elections, that the petitioner is an aggrieved party, and that the petitioner is likely to prevail in the appeal.

If service is by mail or a designated delivery service, the additional time after service provided in Rule 6(e) of the North Carolina Rules of Civil Procedure shall apply to both the time for appeal and the time to obtain a stay under this subsection.

(c) Contests for General Assembly and Executive Branch Offices. – In the case of a general or special election to either house of the General Assembly or to an office established by Article III of the Constitution, an unsuccessful candidate has the right to appeal the final decision to the General Assembly in accordance with Article 3 of Chapter 120 and G.S. 163-182.13A, as appropriate.

After the decision by the State Board of Elections has been served on the parties, the certification of nomination or election shall issue pursuant to G.S. 163-182.15 unless a contest of the election is initiated pursuant to Article 3 of Chapter 120 or G.S. 163-182.13A, as appropriate."

SECTION 4.(b) This section becomes effective October 1, 2008.

SECTION 5.(a) G.S. 163-55 is amended by adding a new subsection to read:

"(c) Elections. – For purposes of the 30-day residence requirement to vote in an election in subsection (a) of this section, the term "election" means the day of the primary, second primary, general election, special election, or referendum."

SECTION 5.(b) G.S. 163-86 reads as rewritten:

§ 163-86. Hearing on challenge.

(a) A challenge made under G.S. 163-85 shall be heard and decided before the date of the next primary or election, except that if the board finds that because of the number of challenges, it cannot hold all hearings before the date of the election, it may order the challenges to be heard and decided at the next time the challenged person appears and seeks to vote, as if the challenge had been filed under G.S. 163-87. Unless the hearing is ordered held under G.S. 163-87, it shall be heard and decided by the board of elections.

(b) At least 10 days prior to the hearing scheduled under G.S. 163-86(c), the board of elections shall mail by first-class mail, a written notice of the challenge to the challenged voter, to the address of the voter listed in the registration records of the county. The notice shall state succinctly the grounds asserted, and shall state the time and place of the hearing. If the hearing is to be held at the polls, the notice shall state that fact and shall list the date of the next scheduled election, the location of the voter's polling place, and the time the polls will be open. A copy of the notice shall be sent to the person making the challenge and to the chairman of each political party in the county.

(c) At the time and place set for the hearing on a challenge entered prior to the date of a primary or election, the county board of elections shall explain to the challenged registrant the qualifications for registration and voting in this State. The

board chairman, or in his absence the board secretary, shall then administer the following oath to the challenged registrant:

"You swear (or affirm) that the statements and information you shall give in this hearing with respect to your identity and qualifications to be registered and to vote shall be the truth, the whole truth, and nothing but the truth, so help you, God."

After swearing the challenged registrant, the board shall examine him as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, the board shall tender to him the following oath or affirmation:

"You do solemnly swear (or affirm) that you are a citizen of the United States; that you are at least 18 years of age or will become 18 by the date of the next general election; that you have or will have resided in this State and in the precinct for which registered for 30 days by the date of the next ~~general~~primary or election; that you are not disqualified from voting by the Constitution or the laws of this State; that your name is _____, and that in such name you were duly registered as a voter of _____ precinct; and that you are the person you represent yourself to be, so help you, God."

If the challenged registrant refuses to take the tendered oath, or submit to the board the affidavit required by subsection (d), below, the challenge shall be sustained. If the challenged registrant takes the tendered oath, the board may, nevertheless, sustain the challenge if it finds the challenged registrant is not a legal voter.

The board, in conducting hearings on challenges, shall have authority to subpoena any witnesses it may deem appropriate, and administer the necessary oaths or affirmations to all witnesses brought before it to testify to the qualifications of the persons challenged.

(d) Appearance by Challenged Registrant. – The challenged registrant shall appear in person at the challenge hearing. If he is unable to appear in person, he may be represented by another person and must tender to the county board of elections an affidavit that he is a citizen of the United States, is at least 18 years of age or will become 18 by the date of the next general election, has or will have resided in this State and in the precinct for which registered for 30 days by the date of the next ~~general~~primary or election, is not disqualified from voting by the Constitution or laws of this State, is named _____ and was duly registered as a voter of _____ precinct in such name, and is the person represented to be by the affidavit."

SECTION 5.(c) G.S. 163-283 reads as rewritten:

"§ 163-283. Right to participate or vote in party primary.

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless he

- (1) Is a registered voter, and
- (2) Has declared and has had recorded on the registration book or record the fact that he affiliates with the political party in whose primary he proposes to vote or participate, and
- (3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. ~~163-116~~163-119 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age ~~or residence~~ to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary election, shall be entitled to register while the registration books are open during the regular registration period prior to the primary and then to vote in the

primary after being registered, provided however, under full-time and permanent registration, such an individual may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections."

SECTION 5.(d) G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for a Primary or Election. – In order to be valid for ~~an~~ a primary or election, except as provided in G.S. 163-82.6A, the form:

- (1) If submitted by mail, must be postmarked at least 25 days before the primary or 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 primary or election,
- (2) If submitted in person, 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 primary or 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 primary or election, except as provided in subsection (d) of this section."

SECTION 5.(e) G.S. 163-82.6(d) reads as rewritten:

"(d) Instances When Person May Register and Vote on Primary or Election Day. – If a person has become qualified to register and vote between the twenty-fifth day before ~~an~~ a primary or election and primary or election day, then that person may apply to register on primary or 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 primary or 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 primary or 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."

SECTION 6.(a) G.S. 163-278.6(14) reads as rewritten:

- "(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~~ the 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.

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.

The term "political committee" includes the campaign of a candidate who serves as his or her own treasurer.

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."

SECTION 6.(b) G.S. 163-278.14A(a) reads as rewritten:

"(a) ~~Either of the~~ The following shall be ~~means, but not necessarily the exclusive or conclusive means, means~~ of proving that an individual or other entity acted "to support or oppose the nomination or election of one or more clearly identified candidates":

- (1) ~~Evidence candidates~~: presenting evidence of financial sponsorship of"; and communications to the general public that use phrases such as "vote for", "reelect", "support", "cast your ballot for", "(name of candidate) for (name of office)", "(name of candidate) in (year)", "vote against", "defeat", "reject", "vote pro-(policy position)" or "vote anti-(policy position)" accompanied by a list of candidates clearly labeled "pro-(policy position)" or "anti-(policy position)", or communications of campaign words or slogans, such as posters, bumper stickers, advertisements, etc., which say "(name of candidate)'s the One", "(name of candidate) '98", "(name of candidate)!", or the names of two candidates joined by a hyphen or slash.
- (2) ~~Evidence of financial sponsorship of communications whose essential nature expresses electoral advocacy to the general public and goes beyond a mere discussion of public issues in that they direct voters to take some action to nominate, elect, or defeat a candidate in an election. If the course of action is unclear, contextual factors such as~~

~~the language of the communication as a whole, the timing of the communication in relation to events of the day, the distribution of the communication to a significant number of registered voters for that candidate's election, and the cost of the communication may be considered in determining whether the action urged could only be interpreted by a reasonable person as advocating the nomination, election, or defeat of that candidate in that election."~~

SECTION 6.(c) G.S. 163-278.13 is amended by adding a new subsection to read:

"(e5) The contribution limits of subsections (a) and (b) of this section do not apply to contributions made to an independent expenditure political committee. For purposes of this section, an "independent expenditure political committee" is a political committee whose treasurer makes and abides by a certification to the State Board of Elections that the political committee does not and will not make contributions, directly or indirectly, to candidates or to political committees that make contributions to candidates. The State Board of Elections shall provide forms for implementation of this subsection. This subsection shall not apply to a candidate or a political committee controlled by a candidate. The exception of this subsection is in addition to any other exception provided by law."

SECTION 6.(d) This section is effective when it becomes law.

SECTION 7.(a) G.S. 163-278.13(e2)(3) is repealed.

SECTION 7.(b) G.S. 163-278.67 is amended by adding a new subsection to read:

"(c1) Expedited Distribution of Matching Funds. – When a candidate becomes entitled to any amount of matching funds under subsection (a) of this section, the Board shall authorize the issuance of that amount to the candidate as soon as practicable. The Department of Administration shall transfer that amount to the candidate as soon as practicable and in no event later than 12 hours after receiving notice from the Board that the candidate has become entitled to it. The Department of Administration shall develop a method of rapidly transferring funds to a candidate or otherwise fulfilling the requirements of this subsection in conjunction with the Board. The candidate shall return to the Board as soon as practicable any amount of the matching funds that the candidate has not spent at the date of the election or at the time the individual ceases to be a certified candidate, whichever occurs first."

SECTION 7.(c) This section is effective when it becomes law.

SECTION 8.(a) Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.8A. Campaign sales by political party executive committees.

(a) Exempt Purchase Price Not Treated as "Contribution." – Notwithstanding the provisions of G.S. 163-278.6(6), the purchase price of goods or services sold by a political party executive committee as provided in subsection (b) of this section shall not be treated as a "contribution" for purposes of account-keeping under G.S. 163-278.8, for purposes of the reporting of contributions under G.S. 163-278.11, or for the purpose of the limit on contributions under G.S. 163-278.13. The treasurer is not required to obtain, maintain, or report the name or other identifying information of the purchaser of the goods or services, as long as the requirements of subsection (b) of this section are satisfied. However, the proceeds from the sales of those goods and services shall be treated as contributions for other purposes, and expenditures of those proceeds shall be reported as expenditures under this Article.

(b) Exempt Purchase Price. – A purchase price for goods or services sold by a political party executive committee qualifies for the exemption provided in subsection (a) of this section as long as the sale of the goods or services adheres to a plan that the treasurer has submitted to and that has been approved in writing by the Executive Director of the State Board of Elections. The Executive Director shall approve the treasurer's plan upon and only upon finding that all the following requirements are satisfied:

- (1) That the price to be charged for the goods or services is reasonably close to the market price for the goods or services.
- (2) That the total amount to be raised from sales under all plans by the committee does not exceed ten thousand dollars (\$10,000) per election cycle.
- (3) That no purchaser makes total purchases under the plan that exceed fifty dollars (\$50.00).
- (4) That the treasurer include in the report under G.S. 163-278.11, covering the relevant time period, all of the following:
 - a. A description of the plan.
 - b. The amount raised from sales under the plan.
 - c. The number of purchases made.
- (5) That the treasurer shall include in the appropriate report under G.S. 163-278.11 any in-kind contribution made to the political party executive committee in providing the goods or services sold under the plan and that no in-kind contribution accepted as part of the plan violates any provision of this Article.

The Executive Director may require a format for submission of a plan, but that format shall not place undue paperwork burdens upon the treasurer. As used in this subdivision, the term "election cycle" has the same meaning as in G.S. 163-278.6(7c)."

SECTION 8.(b) This section becomes effective August 15, 2008, or on the date of preclearance under Section 5 of the Voting Rights Act of 1965, whichever occurs later, except that with respect to county political party executive committees in counties not subject to Section 5 of the Voting Rights Act it is effective when it becomes law. This section applies to contributions made or accepted on or after the effective date. If preclearance is denied to this section, this section is repealed on the date of denial.

SECTION 9.(a) Part 2 of Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.40J. Other committees report by municipal schedule.

A candidate or political committee that appoints a treasurer under G.S. 163-278.7 shall make reports according to the schedule under this Part if it makes contributions or expenditures concerning municipal elections."

SECTION 9.(b) G.S. 163-278.27(a) reads as rewritten:

"(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who intentionally violates the applicable provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.16B, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, ~~163-278.40D~~ or ~~163-278.40E~~ 163-278.40D, 163-278.40E, or 163-278.40J is guilty of a Class 2 misdemeanor. The statute of limitations shall run from the day the

last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred."

SECTION 9.(c) G.S. 163-278.9(a)(5a) reads as rewritten:

"(5a) Quarterly Reports. – During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting or opposing a candidate, the treasurer shall file a report by mailing or otherwise delivering it to the Board no later than seven working days after the end of each calendar quarter covering the prior calendar quarter, except that:

- a. The report for the first quarter shall also cover the period in April through the seventeenth day before the primary, the first quarter report shall be due seven days after that date, and the second quarter report shall not include that period if a first quarter report was required to be filed; and
- b. The report for the third quarter shall also cover the period in October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed."

SECTION 9.(d) G.S. 163-278.9(d) reads as rewritten:

"(d) Candidates and committees for municipal offices are not subject to subsections (a), (b) and (c) of this ~~section~~-section, unless they make contributions or expenditures concerning elections covered by this Part. Reports for those candidates and committees are covered by Part 2 of this Article."

SECTION 9.(e) This section becomes effective December 1, 2008.

SECTION 10.(a) G.S. 163-278.8 is amended by adding a new subsection to read:

"(h) The treasurer shall maintain all moneys of the political committee in a bank account or bank accounts used exclusively by the political committee and shall not commingle those funds with any other moneys."

SECTION 10.(b) This section becomes effective September 1, 2008.

SECTION 10.1.(a) G.S. 163-98 reads as rewritten:

"§ 163-98. **General election participation by new political party.**

In the first general election following the date on which a new political party qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its candidates for national, State, congressional, and local offices printed on the official ballots upon paying a filing fee equal to that provided for candidates for the office in G.S. 163-107 or upon complying with the alternative available to candidates for the office in G.S. 163-107.1.

For the first general election following the date on which it qualifies under G.S. 163-96, a new political party shall select its candidates by party convention. Following adjournment of the nominating convention, but not later than the first day of July prior to the general election, the president of the convention shall certify to the State Board of Elections the names of persons chosen in the convention as the new party's candidates in the ensuing general election. Any candidate nominated by a new party shall be affiliated with the party at the time of certification to the State Board of Elections. The requirement of affiliation with the party will be met if the candidate submits at or before the time of certification as a candidate an application to change party affiliation to that party. The State Board of Elections shall print names thus

certified on the appropriate ballots as the nominees of the new party. The State Board of Elections shall send to each county board of elections the list of any new party candidates so that the county board can add those names to the appropriate ballot."

SECTION 10.1.(b) This section becomes effective January 1, 2009, and applies to elections held on or after that date.

SECTION 10.2.(a) G.S. 163-278.66(a) reads as rewritten:

"(a) ~~Reporting by Participating and Certified Candidates.~~ Reporting by Noncertified Candidates and Other Entities. – Any noncertified candidate with a certified opponent shall report total ~~income, expenses, and obligations~~ contributions received to the Board by facsimile machine or electronically within 24 hours after the total amount of ~~campaign expenditures or obligations made, or funds raised or borrowed,~~ contributions received exceeds eighty percent (80%) of the trigger for matching funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in support of or opposition to a certified candidate or in support of a candidate opposing a certified candidate, or paying for electioneering communications, referring to one of those candidates, shall report the total ~~funds received, spent, or obligated for those expenditures or payments~~ made to the Board by facsimile machine or electronically within 24 hours after the total amount of ~~expenditures or obligations made, or funds raised or borrowed, or payments made~~ for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After ~~this the~~ initial 24-hour filing, the noncertified candidate or other reporting entity shall comply with an expedited reporting ~~schedule by filing additional reports after receiving each additional amount in excess of one thousand dollars (\$1,000) or after making or obligating to make each additional expenditure(s) or payment(s) in excess of one thousand dollars (\$1,000).~~ schedule. The schedule and forms for reports required by this subsection shall be ~~made according to procedures developed~~ supplied by the Board."

SECTION 10.2.(b) G.S. 163-278.99A(a) reads as rewritten:

"(a) Reporting by Noncertified Candidates and Other Entities. – Any nonparticipating candidate with a certified opponent shall report total ~~income, expenses, and obligations~~ contributions received to the Board by facsimile machine or electronically within 24 hours after the total amount of ~~campaign related expenditures or obligations made, or funds raised or borrowed,~~ contributions received exceeds eighty percent (80%) of the trigger for matching funds as defined in G.S. 163-278.96(17). Any entity making independent expenditures in support of or in opposition to a certified candidate, or in support of a candidate opposing a certified candidate, or paying for electioneering communications referring to one of those candidates, shall report the total funds received, spent, or obligated for those expenditures or payments to the Board by facsimile machine or electronically within 24 hours after the total amount of ~~expenditures or obligations made, or funds raised or borrowed,~~ for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After ~~this the~~ initial 24-hour filing, the nonparticipating candidate or other reporting entity shall comply with an expedited reporting ~~schedule by filing additional reports after receiving an additional amount in excess of one thousand dollars (\$1,000) or after making or obligating to make an additional expenditure or payment in excess of one thousand dollars (\$1,000).~~ schedule. The schedule and forms for reports required by this subsection shall be ~~made according to procedures developed~~ supplied by the Board."

SECTION 10.2.(c) This section is effective when it becomes law.

SECTION 10.3.(a) G.S. 163-278.82 is amended by adding a new subsection to read:

"(d) Limitation on Prohibition. – The prohibition in this section shall not apply unless the electioneering communication at issue is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate."

SECTION 10.3.(b) G.S. 163-278.92 is amended by adding a new subsection to read:

"(d) Limitation on Prohibition. – The prohibition in this section shall not apply unless the electioneering communication at issue is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate."

SECTION 10.3.(c) This section is effective when it becomes law.

SECTION 11.(a) G.S. 163-278.9(a)(4a) reads as rewritten:

"(4a) 48-Hour Report. – A political committee or political party that receives a contribution or transfer of funds ~~from any political committee~~ shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars (\$1,000) or more received before an election but after the period covered by the last report due before that election. The disclosure shall be by report to the State Board of Elections identifying the source and amount of the funds. The State Board of Elections shall specify the form and manner of making the ~~report~~ report, including the reporting of in-kind contributions."

SECTION 11.(b) G.S. 163-278.9A(a)(2a) reads as rewritten:

"(2a) 48-Hour Report. – A referendum committee that receives a contribution or transfer of funds ~~from any political committee~~ shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars (\$1,000) or more received before a referendum but after the period covered by the last report due before that referendum. The disclosure shall be by report to the State Board of Elections identifying the source and amount of such funds. The State Board of Elections shall specify the form and manner of making the ~~report~~ report, including the reporting of in-kind contributions."

SECTION 11.(c) This section becomes effective October 1, 2008.

SECTION 12. 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, 2008.

Became law upon approval of the Governor at 8:34 p.m. on the 2nd day of August, 2008.

Session Law 2008-151

S.B. 963

AN ACT RELATING TO THE HOURS OF LABOR AND OVERTIME
COMPENSATION OF MEMBERS OF MUNICIPAL FIRE DEPARTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 160A of the General Statutes is amended by adding a new Article to read:

"Article 14A."Municipal Firefighters.**"§ 160A-295. Definitions.**

As used in this Article, the following terms mean:

- (1) Compensatory time. – Time off with regular compensation in lieu of immediate overtime premium pay when a fire department, under certain conditions, compensates the firefighter for overtime hours worked.
- (2) Firefighter. – A full-time, paid employee of an employer, maintaining a fire department certified by the North Carolina Department of Insurance, who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.
- (3) Supervisory personnel. – An individual employed by a public safety employer who (i) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, or to adjust their grievances or effectively recommend an adjustment, provided that the exercise of the authority is not merely routine or clerical in nature, but requires consistent exercise of independent judgment; and (ii) devotes a majority of time at work exercising that authority.
- (4) Trade time. – The time one individual substitutes for another during scheduled work hours in performance of work in the same capacity when two individuals are employed in any occupation by the same fire department, as agreed to solely at the individual's option and with the approval of the management of the fire department. The hours worked are excluded by the employer in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation under this Article. Where one employee substitutes for another, the employee being substituted for is credited as if he or she had worked his or her normal work schedule for that shift.

"§ 160A-295.1. Municipal firefighters; hours of labor; overtime pay.

(a) A firefighter or a member of a fire department who provides emergency medical services, other than supervisory personnel, and who is required or permitted to work, on average, more than 53 hours in a seven-day work period or up to the number of hours that bears the same ratio to 212 hours as the number of days in the work period bears to 28 days is considered to have worked overtime. A person included under this subsection is entitled to be compensated for the overtime as provided by subsection (d) of this section.

(b) A member of a fire department, other than supervisory personnel, who does not fight fires or provide emergency medical services, including a mechanic, clerk, investigator, inspector, fire marshal, fire alarm dispatcher, or maintenance worker, and who is required or permitted to average more hours in a week than the number of hours in a normal workweek of the majority of the employees of the municipality other than firefighters, emergency medical service personnel, and police officers, is considered to have worked overtime. A person included under this subsection is entitled to be compensated for the overtime as provided by subsection (d) of this section.

(c) In computing the hours worked in a workweek or the average number of hours worked in a workweek during a work cycle of a firefighter or other member of a

fire department covered by this section, all hours are counted during which the firefighter or other member of a fire department is required to remain on call on the employer's premises or so close to the employer's premises that the person cannot use those hours effectively for that person's own purposes. Hours in which the firefighter or other member of a fire department is required only to leave a telephone number at which that person may be reached or to remain accessible by radio or pager are not to be used in computing the hours worked. In computing the hours in a workweek or the average number of hours in a workweek during a work cycle of a firefighter or a member of a fire department who provides emergency medical services, vacation, sick time, holidays, time in lieu of holidays, compensatory time, or trade time may be excluded as hours worked.

(d) A firefighter or other member of a fire department may be required or permitted to work overtime. A firefighter, other than supervisory personnel, who is required or permitted to work overtime as provided by subsection (a) of this section is entitled to be paid overtime for the excess hours worked without regard to the number of hours worked in any one week of the work cycle. Overtime hours as computed under this Article are to be paid at a rate equal to one and one-half times the compensation paid to the firefighter or member of the fire department for regular hours. To the extent that the municipality complies with the requirements of section 7(o) of the Fair Labor Standards Act (29 U.S.C. § 207(o)), it may compensate firefighters for their overtime hours with compensatory time in lieu of pay. A member of a fire department included under subsection (b) of this section shall be paid overtime in the same manner as other employees of the municipality entitled to overtime pay, excluding firefighters.

"§ 160A-295.2. Authority of Department of Labor.

The Department of Labor shall have the authority to enforce the provisions of this Article to the extent that these provisions are not subject to enforcement under the Fair Labor Standards Act (29 U.S.C. § 207).

"§ 160A-295.3. Applicability.

This Article applies only to full-time paid firefighters and other full-time paid members of a fire department of a municipality that employs five or more employees in fire protection during the workweek."

SECTION 2. This act becomes effective when 29 U.S.C. § 207(k) is repealed or is no longer enforceable.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 8:36 p.m. on the 2nd day of August, 2008.

Session Law 2008-152

S.B. 1885

AN ACT TO PROMOTE COMPENSATORY MITIGATION BY PRIVATE MITIGATION BANKS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-214.11 reads as rewritten:

"§ 143-214.11. Ecosystem Enhancement Program: compensatory mitigation.

(a) Definition. – For purposes of this section, the term "compensatory mitigation" means the restoration, creation, enhancement, or preservation of wetlands or other areas

required as a condition of a section 404 permit issued by the United States Army Corps of Engineers.

(b) Department of Environment and Natural Resources to Coordinate Compensatory Mitigation. – All compensatory mitigation required by permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 shall be coordinated by the Department consistent with the basinwide plans for wetlands restoration and rules developed by the Environmental Management Commission. All compensatory wetlands mitigation, whether performed by the Department or by permit applicants, shall be consistent with the basinwide restoration plans.

(c) Mitigation Emphasis on Replacing Ecological Function Within Same River Basin. – The emphasis of mitigation is on replacing functions within the same river basin unless it is demonstrated that restoration of other areas would be more beneficial to the overall purposes of the Ecosystem Enhancement Program.

(d) ~~Compensatory Mitigation Options Available to Applicant. – An applicant~~the North Carolina Department of Transportation. – The North Carolina Department of Transportation may satisfy compensatory wetlands mitigation requirements by the following actions, if those actions are consistent with the basinwide restoration plans and also meet or exceed the requirements of the United States Army Corps of Engineers:

- (1) Payment of a fee established by the Department into the Ecosystem Restoration Fund established in G.S. 143-214.12.
- (2) Donation of land to the Ecosystem Enhancement Program or to other public or private nonprofit conservation organizations as approved by the Department.
- (3) Participation in a private wetlands mitigation bank.
- (4) Preparing and implementing a wetlands restoration plan.

(d1) Compensatory Mitigation Options Available to Applicants Other than the North Carolina Department of Transportation. – An applicant other than the North Carolina Department of Transportation may satisfy compensatory wetlands mitigation requirements by the following actions, if those actions meet or exceed the requirements of the United States Army Corps of Engineers:

- (1) Participation in a private wetlands mitigation bank. – This option is only available in a hydrologic area where there is at least one private wetlands mitigation bank that has been (i) approved by the United States Army Corps of Engineers and that has available mitigation credit or (ii) approved by the North Carolina Division of Water Quality for resources regulated under the Neuse and Tar-Pam rules and that has available mitigation credit. For purposes of this subdivision, "hydrologic area" means the eight-digit Hydrologic Unit Code where the mitigation bank is located.
- (2) Payment of a fee established by the Department into the Ecosystem Restoration Fund established in G.S. 143-214.12. – This option is only available to an applicant if the option under subdivision (1) of this subsection is not available as an option.
- (3) Donation of land to the Ecosystem Enhancement Program or to other public or private nonprofit conservation organizations as approved by the Department.
- (4) Preparing and implementing a wetlands restoration plan.

(e) **Payment Schedule.** – A standardized schedule of per-acre payment amounts shall be established by the Environmental Management Commission. The monetary payment shall be based on the ecological functions and values of wetlands permitted to be lost and on the cost of restoring or creating wetlands capable of performing the same or similar functions, including directly related costs of wetlands restoration planning, long-term monitoring, and maintenance of restored areas.

(f) **Mitigation Banks.** – State agencies and private mitigation banking companies shall demonstrate that adequate, dedicated financial surety exists to provide for the perpetual land management and hydrological maintenance of lands acquired by the State as mitigation banks, or proposed to the State as privately operated and permitted mitigation banks.

(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 2. This act becomes effective October 1, 2008, and applies to applications for a mitigation permit submitted on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 8:40 p.m. on the 2nd day of August, 2008.

Session Law 2008-153

S.B. 1651

AN ACT TO AMEND THE REVISED ANATOMICAL GIFT ACT AND OTHER SECTIONS OF THE GENERAL STATUTES FOR CONSISTENCY, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO LOWER THE MINIMUM AGE FOR DONATING BLOOD FROM SEVENTEEN TO SIXTEEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-602 reads as rewritten:

"§ **90-602. Routine search for donor ~~information~~information; notification of hospital; definitions as provided in the Revised Uniform Anatomical Gift Act.**

(a) ~~The following persons may make a reasonable search for a document of gift or other information identifying the bearer as an organ donor or as an individual who has refused to make an anatomical gift:~~

- ~~(1) A law enforcement officer, firefighter, paramedic, or other official emergency rescuer finding an individual who the searcher believes is near death; and~~
- ~~(2) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.~~

For the purposes of this section, the terms "anatomical gift," "document of gift," "donor," and "refusal" have the same meaning as in G.S. 130A-412.4.

(a1) The following persons may make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

- (1) A law enforcement officer,
- (2) A firefighter,
- (3) A paramedic, or
- (4) Another official emergency rescuer finding the individual.

If a document of gift or a refusal is located by a search under this subsection and the individual or deceased individual to whom it relates is taken to a hospital, the person conducting the search shall send the document of gift or refusal to the hospital or cause it to be sent.

(a2) If no other source of information is immediately available, a hospital shall make a reasonable search of an individual who the hospital reasonably believes is dead or near death, as soon as practical after the individual arrives at the hospital, for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal.

(b) Any law enforcement officer or other person listed in subsection (a)(a1) or (a2) of this section may conduct an administrative search of the accident-trauma victim's Division of Motor Vehicles driver record to determine the individual's authorization for organ donation or refusal of organ donation, ascertain whether the individual is a donor. If a document of gift or a refusal is located by a search under this subsection and the individual or deceased individual to whom it relates is taken to a hospital, the person conducting the search shall notify the hospital of the results or cause the hospital to be notified.

(c) A physical search pursuant to subsection (a)(a1) or (a2) of this section may be conducted at or near the time of death or hospital admission and shall be limited to those personal effects of the individual where a drivers license reasonably may be stored. Any information, document, tangible objects, or other items discovered during the search shall be used solely for the purpose of ascertaining the individual's identity, notifying the individual's next of kin, and determining whether the individual intends to make an anatomical gift, and in no event shall any such discovered material be admissible in any subsequent criminal or civil proceeding, unless obtained pursuant to a lawful search on other grounds.

(d) A hospital or other person with duties under this section is not subject to criminal or civil liability for failing to discharge those duties but may be subject to administrative sanctions.

(e) A person that acts under this section with due care, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding."

SECTION 2. G.S. 130A-412.14 reads as rewritten:

"§ 130A-412.14. Search and notification.

~~(a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:~~

- ~~(1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and~~
- ~~(2) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.~~

~~(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subdivision (a)(1) of this section and the individual or deceased~~

~~individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.~~

~~(e) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.~~

A search of an individual who is reasonably believed to be dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal, and, if applicable, notification of the hospital to which the individual is taken, shall be governed by G.S. 90-602."

SECTION 3. G.S. 130A-391 is repealed.

SECTION 4. G.S. 32A-15(d) reads as rewritten:

"(d) This Article is intended and shall be construed to be consistent with the provisions of ~~Part 3~~Part 3A of Article 16 of Chapter 130A of the General Statutes. In the event of a conflict between the provisions of this Article and ~~Part 3~~ Part 3A of Article 16 of Chapter 130A, the provisions of ~~Part 3~~Part 3A of Article 16 of Chapter 130A control."

SECTION 5. G.S. 90-210.124(d) reads as rewritten:

"(d) This section does not apply to the disposition of dead human bodies as anatomical gifts under ~~Part 3~~Part 3A of Article 16 of Chapter 130A of the General Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes."

SECTION 6. G.S. 90-210.129(q) reads as rewritten:

"(q) Before the cremation of amputated body parts, the crematory licensee shall receive a written statement, on a form prescribed by the Board and signed by the attending physician, acknowledging the circumstances of the amputation. If after reasonable efforts no physician can be identified with knowledge and information sufficient to complete the written statement required by this subsection, the crematory licensee shall notify the local medical examiner pursuant to G.S. 130A-383(b). This section does not apply to the disposition of body parts cremated pursuant to ~~Part 3~~Part 3A of Article 16 of Chapter 130A of the General Statutes."

SECTION 7. G.S. 130A-415(f) reads as rewritten:

"(f) Notwithstanding anything contained in this section, an unclaimed body shall not mean a dead body for which the deceased has made a gift pursuant to ~~Part 3~~Part 3A of this Article."

SECTION 8. G.S. 130A-420(d) reads as rewritten:

"(d) This section does not apply to the disposition of dead human bodies as anatomical gifts under ~~Part 3~~Part 3A of Article 16 of Chapter 130A of the General Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes."

SECTION 9. G.S. 130A-412.31 reads as rewritten:

"§ **130A-412.31. Giving of blood by persons ~~17~~16 years of age or more.**

A person who is ~~17~~16 years of age or more may give or donate blood to an individual, hospital, blood bank or blood collection center without the consent of the parent or parents or guardian of the donor. It shall be unlawful for a person under the age of 18 years to sell blood."

SECTION 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 8:42 p.m. on the 2nd day of August, 2008.

Session Law 2008-154

H.B. 2509

AN ACT TO AUTHORIZE A SEMIANNUAL SALES AND USE TAX REFUND TO A NONPROFIT ORGANIZATION THAT PROCURES, DESIGNS, CONSTRUCTS, OR PROVIDES FACILITIES TO A CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity:

- (1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes.
- (2) Educational institutions not operated for profit.
- (3) Churches, orphanages, and other charitable or religious institutions and organizations not operated for profit.
- (4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.
- (5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization.

Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity.

A hospital that is not allowed a refund under this subsection of sales and use taxes paid on its direct purchases of tangible personal property is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work.

The refunds allowed under this subsection for certain nonprofit entities and for medicines and drugs purchased by hospitals do not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c).

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 for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15."

SECTION 2. This act becomes effective January 1, 2004, and applies to purchases made on or after that date. Notwithstanding G.S. 105-164.14(b), a request for a refund of sales and use tax paid for the period January 1, 2004, through December 31, 2007, is timely filed if it is submitted to the Secretary of Revenue by October 15, 2008.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 3:26 a.m. on the 3rd day of August, 2008.

Session Law 2008-155

H.B. 2496

AN ACT TO AUTHORIZE THE ADDITION OF BEAR PAW STATE NATURAL AREA AND YELLOW MOUNTAIN STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution 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 General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, an area on the Avery and Watauga County line, including Hanging Rock Ridge and the headwaters of Dutch Creek, is known to be nationally significant for its excellent examples of the rare High Elevation Rocky Summit community type and other exemplary natural communities; and

Whereas, rare species found at the site include Heller's blazing star, Blue Ridge goldenrod, spreading avens, American speedwell, wretched sedge, Roan rattlesnakeroot, and golden tundra-moss; and

Whereas, this site was known by the Cherokee as Yonah-wayah, or Bear's Paw; and

Whereas, the Bear Paw State Natural Area has been found to possess biological resources of statewide significance; and

Whereas, the area known as Yellow Mountain in Avery and Mitchell Counties near the Roan Mountain massif is known to be nationally significant for its Grassy Bald and Heath Bald natural community types, as well as its assemblage of other outstanding high elevation natural communities; and

Whereas, the site supports dozens of rare plant and animal species, including the northern flying squirrel, the spruce-fir moss spider, Gray's lily, Roan Mountain bluet, and the rock gnome lichen; and

Whereas, the Yellow Mountain State Natural Area has been found to possess biological resources of statewide significance; and

Whereas, both of these natural areas are valuable for scientific research and education, and as examples of the diverse natural resources of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

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

SECTION 2. The General Assembly authorizes the Department of Environment and Natural Resources to add Yellow Mountain State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

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

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 3:27 a.m. on the 3rd day of August, 2008.

Session Law 2008-156

S.B. 1800

AN ACT TO AMEND THE DEFINITIONS OF "HAZARDOUS MATERIALS" AND "STATE" UNDER NORTH CAROLINA'S MOTOR VEHICLE LAWS IN ORDER TO COMPLY WITH FEDERAL LAW, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE; TO ALLOW CERTAIN NATURAL GAS UTILITY EMPLOYEES AND CONTRACTORS TO USE ALL-TERRAIN VEHICLES ON PUBLIC HIGHWAYS WHILE ACTING IN THE COURSE AND SCOPE OF THEIR EMPLOYMENT; AND TO AMEND THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSE LAW GOVERNING THE LOCATION OF ADDITIONAL OR RELOCATED NEW MOTOR VEHICLE DEALERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(12c) Hazardous Materials. – ~~Materials designated as hazardous by the United States Secretary of Transportation under 49 U.S.C. § 1803.~~ Any material that has been designated as hazardous under 49 U.S.C. § 5103 and is required to be placarded under Subpart F of Part 172 of Title 49 of the Code of Federal Regulations (1 October 2007 Edition), or any quantity of a material listed as a select agent or toxin under Part 73 of Title 42 of the Code of Federal Regulations (1 October 2007 Edition).

...

(45) State. – A state, territory, or possession of the United States, District of Columbia, Commonwealth of Puerto Rico, a province of Canada, or the Sovereign Nation of the Eastern Band of the Cherokee Indians with tribal lands, as defined in 18 U.S.C. § 1151, located within the boundaries of the State of North Carolina. For provisions in this Chapter that apply to commercial drivers licenses, "state" means a state of the United States and the District of Columbia.

...."

SECTION 2. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-171.25. Motorized all-terrain vehicle use by certain employees of natural gas utilities permitted on public highways and rights-of-way.

(a) Natural gas utility employees and contractors engaged in pipeline safety, leak survey, and patrolling activities, acting in the course and scope of their employment, may operate motorized all-terrain vehicles owned or leased by the utility on public highways and rights-of-way only to the extent necessary to perform those activities.

(b) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(c) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(d) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(e) A person operating an all-terrain vehicle pursuant to this section shall carry an official company identification card or badge."

SECTION 3. G.S. 20-305(5)a.5. is repealed.

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 3:29 a.m. on the 3rd day of August, 2008.

Session Law 2008-157

S.B. 741

AN ACT TO AMEND THE LAW GOVERNING ADVANCE PAYMENTS BY NONPROFIT ORGANIZATIONS AND INDIAN TRIBES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-9(d) reads as rewritten:

"(d) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this paragraph. For the purposes of this paragraph, a nonprofit organization is an organization (or group of organizations) described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(1) a. Any nonprofit organization which becomes subject to this Chapter on or after January 1, 1972, shall pay contributions under the provisions of this Chapter, unless it elects in accordance with this paragraph to pay the Commission for the Unemployment Insurance Fund an amount equal to the amount of regular benefits and of one half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin within a benefit year established during the effective period of such election.

b. Any nonprofit organization which is or becomes subject to this Chapter on or after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less

than four calendar years beginning with the date on which subjectivity begins by filing a written notice of its election with the Commission not later than 30 days immediately following the date of written notification of the determination of such subjectivity. Provided if notification is not by registered mail, the election may be made on or after January 1, 1972, within six months following the date of the written notification of the determination of such subjectivity. If such election is not made as set forth herein, no election can be made until after four calendar years have elapsed under the contributions method of payment.

- c. Any nonprofit organization which makes an election in accordance with subparagraph b of this paragraph will continue after such four calendar years to be liable for payments in lieu of contributions until it files with the Commission a written notice terminating its election not later than 30 days prior to the next January 1, effective on such January 1. Provided, however, no employer granted or in reimbursement status will be allowed refund of any previous balances used in a transfer to reimbursement status.
- d. Any nonprofit organization which has been paying contributions under this Chapter for a period of at least four consecutive calendar years subsequent to January 1, 1972, may elect to change to a reimbursement basis by filing with the Commission not later than 30 days prior to the next January 1 a written notice of election to become liable for payments in lieu of contributions, effective on such January 1. Such election shall not be terminable for a period of four calendar years. In the event of such an election, the account of such employer shall be closed and shall not be used in any future computation of such employer's contribution rate in any manner whatsoever. ~~Provided, however, any nonprofit employer formerly paying contributions who elects and qualifies to change to a reimbursement basis may be relieved of the requirement to pay one percent (1%) of taxable wages as required by G.S. 96-9(d)(2)a to the following extent and upon the following conditions:~~
 - ~~1. Any nonprofit employer which has, for the year the election will be effective, an experience rating of 1.7 or less, will have transferred from its experience rating account an amount equal to one percent (1%) of its payroll as reported for each of the four calendar quarters which constitute the election year;~~
 - ~~2. Any nonprofit employer which has, for the year the election will be effective, an experience rating of less than 2.7 but more than 1.7, will have transferred from its experience rating account an amount equal to one half of one percent (.5%) of its payroll as reported for each of the four calendar quarters which constitute the election~~

- ~~year. Such employers shall make advance payments to the Commission quarterly, computed at one half of one percent (.5%) of the taxable wages reported as provided in G.S. 96-9(d)(2)a;~~
3. ~~Any nonprofit employer which has, for the year the election will become effective, an experience rating of 2.7 or more, upon electing to change to a reimbursement basis, will meet all the requirements of G.S. 96-9(d)(2)a, including making advance payments computed at one percent (1%) of taxable wages.~~
- d1. Any nonprofit organization which makes an election in accordance with subparagraph b. of this paragraph must secure such election by making a payment in lieu of contributions as provided in subdivision (2) of this subsection, posting a surety bond from an insurance company duly licensed to conduct business in this State, or obtaining an irrevocable letter of credit with the Commission to insure the payments in lieu of contributions as provided in subdivision (2) of this subsection. Any surety bond posted under this paragraph shall be in force for a period of not less than two calendar years and shall be renewed with the approval of the Commission. The Commission may adopt rules to implement the provisions of this subparagraph.
- e. The Commission, in accordance with such regulations as it may adopt, shall notify each nonprofit organization of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review.
- (2) Payments in lieu of contributions shall be made in accordance with the provisions of this subparagraph and shall be processed as provided herein.
- a. Quarterly contributions and wage reports and advance payments shall be submitted to the Commission quarterly under the same conditions and requirements of G.S. 96-9 and 96-10, except that the amount of advance payments shall be computed as one percent (1%) of taxable wages and entered on such reports; provided that such advance payments shall become effective only with respect to the first four thousand two hundred dollars (\$4,200) in wages paid in a calendar year until January 1, 1978. On and after that date advance payments shall be effective with respect to the federally required wage base provided that after December 31, 1983, the wage base shall be the same as that provided for in G.S. 96-9(a)(5). Collection of such advance payments shall be made as provided for the collection of contributions in G.S. 96-10.

Beginning January 1, 1978, any employer making quarterly reports of employment to the Commission and if such employer is a newly electing reimbursement employer he shall pay

contributions of one percent (1%) of taxable wages entered on such reports.

Any employer paying by reimbursement having been, prior to July 1, under the reimbursement method of payment for the preceding calendar year, shall continue to file quarterly reports but shall make no payments with those reports.

- b. The Commission shall establish a separate account for each such employer and such account shall be credited, and maintained as provided in G.S. 96-9(c)(1), except that advance payments shall be credited in full and voluntary contributions are not applicable.
- c. Benefits paid shall be allocated to the employer's account in accordance with G.S. 96-9(c)(2)a but charged to such account without the application of any multiplier, and no benefits shall be noncharged except amounts equal to fifty percent (50%) of extended benefits paid and amounts equal to one hundred percent (100%) of benefits paid through error.
- 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.

- e. The Commission may make necessary rules and regulations with respect to coverage of a group of nonprofit organizations and with respect to the reimbursement of benefits payments by such group of nonprofit organizations.
- (3) a. Any benefits paid to any claimant which are based on previously uncovered employment which are reimbursable by the federal government shall not be charged to a nonprofit organization which makes payments to the State Unemployment Insurance Fund in lieu of contributions.
- b. For purposes of this paragraph previously uncovered employment for which benefits are reimbursable by the federal government means services performed before July 1, 1978, in the case of a week of unemployment beginning before July 1, 1978, or before January 1, 1978, in the case of a week of unemployment beginning after July 1, 1978, and to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (SUA) was not paid to such individuals on the basis of such service."

SECTION 2. G.S. 96-9(i) reads as rewritten:

"(i) Indian Tribes. – Benefits paid to employees of Indian tribe employing units shall be financed in accordance with the provisions of this subsection. For the purposes of this subsection, an "Indian tribe employing unit" is an Indian tribe, a subdivision or subsidiary of an Indian tribe, or a business enterprise wholly owned by an Indian tribe.

(1) Election. –

- a. An Indian tribe employing unit shall pay contributions under the provisions of this Chapter, unless it elects in accordance with this subsection to pay the Commission for the Unemployment Insurance Fund an amount equal to the amount of benefits paid that is attributable to service in the employ of

the unit, to individuals for weeks of unemployment that begin within a benefit year established during the effective period of the election.

- b. An Indian tribe employing unit may elect to become liable for payments in lieu of contributions for a period of not less than three calendar years by filing a written notice of its election with the Commission at least 30 days before the January 1 effective date of the election.
- c. An Indian tribe employing unit that makes an election in accordance with this subsection will continue after the end of the three calendar years to be liable for payments in lieu of contributions until it files with the Commission a written notice terminating its election at least 30 days before the January 1 effective date of the termination.
- d. The account of an Indian tribe employing unit that has been paying contributions under this Chapter for a period of at least three consecutive calendar years and that elects to change to a reimbursement basis shall be closed and shall not be used in any future computation of the unit's contribution rate in any manner. ~~manner. except that the unit may be relieved of the requirement to pay one percent (1%) of taxable wages as required by subdivision (2) of this subsection to the following extent and upon the following conditions:~~
 1. ~~An Indian tribe employing unit that has, for the year the election will be effective, an experience rating of 1.7 or less will have transferred from its experience rating account an amount equal to one percent (1%) of its payroll as reported for each of the four calendar quarters that constitute the election year.~~
 2. ~~An Indian tribe employing unit that has, for the year the election will be effective, an experience rating of less than 2.7 but more than 1.7 will have transferred from its experience rating account an amount equal to one half of one percent (.5%) of its payroll as reported for each of the four calendar quarters that constitute the election year. These employing units shall make advance payments to the Commission quarterly, computed at one half of one percent (.5%) of the taxable wages reported as provided in subdivision (2) of this subsection.~~
 3. ~~An Indian tribe employing unit that has, for the year the election will become effective, an experience rating of 2.7 or more, upon electing to change to a reimbursement basis, will meet all the requirements of subdivision (2) of this subsection, including making advance payments computed at one percent (1%) of taxable wages.~~
- e. The Commission, in accordance with regulations it adopts, shall notify each Indian tribe employing unit of any determination of the effective date of any election it makes and of any

termination of the election. These determinations shall be subject to reconsideration, appeal, and review.

- (2) Procedure. – Indian tribe employing units' payments by reimbursement in lieu of contributions shall be made and processed as provided in this subdivision.

- a. Quarterly contributions and wage reports and advance payments shall be submitted to the Commission quarterly under the same conditions and requirements of G.S. 96-9 and G.S. 96-10, except that the amount of advance payments shall be computed as one percent (1%) of taxable wages and entered on the reports, and except that the wage base shall be the same as that provided for in G.S. 96-9(a)(5). Collection of these advance payments shall be made as provided for the collection of contributions in G.S. 96-10.

Any Indian tribe employing unit paying by reimbursement having been, prior to July 1, under the reimbursement method of payment for the preceding calendar year, shall continue to file quarterly reports but shall make no payments with those reports.

- b. The Commission shall establish a separate account for each Indian tribe employing unit paying by reimbursement. The account shall be credited and maintained as provided in G.S. 96-9(c)(1), except that advance payments shall be credited in full, and voluntary contributions are not applicable.
- c. Benefits paid shall be allocated to the employer's account in accordance with G.S. 96-9(c)(2)a. but charged to the account without the application of any multiplier, and no benefits shall be noncharged except amounts of benefits paid through error.
- 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 Indian tribe employing unit's account and shall furnish the unit with a statement of all charges and credits to the account.

~~As of August 1 of each year, there shall be refunded any credit balance remaining in the Indian tribe employing unit's account (after all applicable postings) in excess of one percent (1%) of taxable wages for the 12 months ending on June 30 preceding the computation date. The refund must be made before February 1 following the computation date.~~

If the balance in the account does not equal one percent (1%) of taxable wages, the Indian tribe employing unit must, upon notice and demand for payment mailed to its last known address, pay into the account an amount that will bring the balance to one percent (1%) of taxable wages. This amount becomes due on or before the 25th day after the notice and demand for payment is mailed. Any 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 before the change in election or termination of coverage have been charged, any credit balance in the account shall be refunded to the Indian tribe employing unit.~~

If there is a debit balance in the account, the Indian tribe employing unit must, upon notice and demand for payment mailed to its last known address, pay into the account an amount necessary to bring the account to one percent (1%) of taxable wages. This amount becomes due on or before the 25th day after the notice and demand for payment is mailed. Any amount unpaid on the due date shall be collected in the same manner, including interest, as prescribed in G.S. 96-10.

- e. Notices to Indian tribe employing units of payment and reporting delinquency must include information that failure to make full payment within the time prescribed will cause the unit to become liable for contributions under subsection (a) of this section, will cause the unit to lose the option of making payment by reimbursement in lieu of contributions, and could cause the unit to lose coverage under this Chapter for services performed for the unit."

SECTION 3. This act becomes effective January 1, 2010.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 3:33 a.m. on the 3rd day of August, 2008.

Session Law 2008-158

S.B. 1407

AN ACT TO PROTECT CUSTOMERS WHEN PURCHASING TICKETS VIA THE INTERNET AND TO PROHIBIT THE USE OF SOFTWARE TO UNFAIRLY PURCHASE TICKETS OVER THE INTERNET.

The General Assembly of North Carolina enacts:

SECTION 1. Article 44 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-344.1. Internet sale of admission tickets in excess of printed price.

(a) Internet Resale. – A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket unless the venue where the event will occur prohibits the Internet ticket resale as provided under subsection (b) of this section. To resell an admission ticket under this section, the person reselling the ticket must offer the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction. A person who resells an admission ticket under this section acknowledges liability for the informational report required under subsection (e) of this section.

(b) Resale Prohibited. – The venue where an event will occur may prohibit the resale of admission tickets for the event at a price greater than the price on the face of the ticket. To prohibit the resale of tickets under this section, the venue must file a notice of prohibition of the resale of admission tickets for a specified event with the

Secretary of State and must post the notice of prohibition conspicuously on its Web site. The primary ticket seller for the event must also post the notice conspicuously on its Web site. A prohibition under this subsection may not become valid until 30 days after the notice is posted on the venue's Web site. The prohibition expires on December 31 of each year unless the prohibition is renewed. To renew a prohibition, a venue must renew its notice of prohibition filed with the Secretary of State and must post the notice as required under this subsection. A venue who files a notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing articles of incorporation. A venue that renews a notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing a paper annual report.

(c) Ticket Guarantee. – A person who resells or offers to resell admission tickets under this section must guarantee to the purchaser a full refund of the amount paid for the ticket under each of the following conditions:

- (1) The ticketed event is cancelled. Reasonable handling and delivery fees may be withheld from the refund price of a cancelled ticketed event if the ticket guarantee on the Web site specifically informs the purchaser that handling and delivery fees will be withheld from the refunded amount.
- (2) The purchaser is denied admission to the ticketed event. This subdivision does not apply if admission to the ticketed event is denied to the purchaser because of an action or omission of the purchaser.
- (3) The ticket is not delivered to the purchaser in the manner described on the Web site or pursuant to the delivery guarantee made by the reseller, and the failure results in the purchaser's inability to attend the ticketed event.

(d) Student Tickets. – This section does not apply to student tickets issued by institutions of higher education in North Carolina for sporting events.

(e) Report on Receipts. – A person who resells or offers to resell admission tickets under this section must report each month to the Department of Revenue, under oath, on a form provided by the Department. The report is due by the 10th day after the end of each month and covers the gross receipts received during the previous month from reselling admission tickets to an event or venue in this State. The report must include all of the following:

- (1) The total amount of gross receipts derived from reselling an admission ticket on the Internet to an event or venue in this State. For purposes of this subsection, gross receipts exclude the price printed on the face of the ticket.
- (2) The event for which admission tickets are sold and the venue where the event will occur.
- (3) The person or venue from whom the reseller purchased admission tickets.
- (4) The acquisition price of the admission tickets.
- (5) The price received by the reseller for the admission tickets.
- (6) The name and address of the person to whom the admission ticket is resold, if the purchaser is a reseller.
- (7) Any other information required by the Secretary of Revenue."

SECTION 2. Article 44 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-344.2. Prohibition on ticket purchasing software.

(a) Definition. – The term 'ticket seller' means a person who has executed a written agreement with the management of any venue in North Carolina for a sporting event, theater, musical performance, or public entertainment of any kind to sell tickets to the event over the Internet.

(b) Unfair Trade Practice. – A person who knowingly sells, gives, transfers, uses, distributes, or possesses software that is primarily designed or produced for the purpose of interfering with the operation of a ticket seller who sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or public entertainment of any kind by circumventing any security measures on the ticket seller's Web site, circumventing any access control systems of the ticket seller's Web site, circumventing any access control solutions of the ticket seller's Web site, or circumventing any controls or measures that are instituted by the ticket seller on its Web site to ensure an equitable ticket buying process shall be in violation of G.S. 75-1.1. The ticket seller and venue hosting the ticketed event have standing to bring a private right of action under G.S. 75-1.1 for violation of this section.

(c) Original Ticket Seller. – A person or firm is not liable under this section with respect to tickets for which the person or firm is the original ticket seller."

SECTION 3. G.S. 14-344 reads as rewritten:

"§ 14-344. Sale of admission tickets in excess of printed price.

Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars (\$3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars (\$3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section or as permitted by G.S. 14-344.1 shall be guilty of a Class 2 misdemeanor."

SECTION 4. This act becomes effective August 1, 2008, and expires June 30, 2009. The expiration of this act does not relieve a person's liability to file the report required under G.S. 14-344.1(e) for gross receipts received in June 2009. Liability for acts or omissions before the expiration date of this act are not abated or affected by the expiration. Section 3 of this act applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 3:35 a.m. on the 3rd day of August, 2008.

Session Law 2008-159

H.B. 1230

AN ACT TO AMEND THE LAW CONCERNING THE ISSUANCE OF SPECIAL ONE-TIME PERMITS TO NONPROFIT ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1002(a)(2) reads as rewritten:

"(2) A permit may be issued to a nonprofit organization to allow the retail sale of malt beverages, unfortified wine, ~~or~~fortified wine, or mixed beverages, or to allow brown-bagging, at a single fund-raising event of that organization. A permit for this purpose shall not be issued for the sale of any kind of alcoholic beverage in a jurisdiction where the sale of that alcoholic beverage is not lawful."

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, 2008.

Became law upon approval of the Governor at 3:36 a.m. on the 3rd day of August, 2008.

Session Law 2008-160

H.B. 2570

AN ACT TO AUTHORIZE THE MOVEMENT OF TRAILER FRAMES NOT EXCEEDING FOURTEEN FEET IN WIDTH TO ANOTHER LOCATION NO FARTHER THAN THREE MILES AWAY FROM THE POINT OF ORIGIN FOR CONTINUED MANUFACTURING OF THE TRANSFER TRAILER WITH AN ANNUAL PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-115.1 is amended by adding a new subsection to read:

"(j) Notwithstanding any other provision of this section, a manufacturer of trailer frames, with a permit issued pursuant to G.S. 20-119, is authorized to transport the trailer frame to another location within three miles of the first place of manufacture to the location of completion on any public street or highway if the width of the trailer frame does not exceed 14 feet and oversize markings and safety flags are used during transport. Trailer frames transported pursuant to this subsection shall not exceed 7,000 pounds, and the vehicle towing the trailer frame shall have a towing capacity greater than 10,000 pounds and necessary towing equipment. The transport of trailer frames under this subsection shall only be done during daylight hours."

SECTION 2. G.S. 20-119(b) reads as rewritten:

"(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department for a single trip permit a fee of twelve dollars (\$12.00) for each dimension over lawful dimensions, including height, length, width, and weight up to 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for a single trip permit in addition to the fee imposed by the previous sentence a fee of three dollars (\$3.00) per 1,000 pounds over 132,000 pounds.

Upon the issuance of an annual permit for a single vehicle, the applicant shall pay a fee in accordance with the following schedule:

Commodity:	Annual Fee:
Annual Permit to	
Move House Trailers <u>or Trailer Frames</u>	\$200.00
Annual Permit to Move Other Commodities	\$100.00

In addition to the fees set out in this subsection, applications for permits that require an engineering study for pavement or structures or other special conditions or considerations shall be accompanied by a nonrefundable application fee of one hundred dollars (\$100.00).

This subsection does not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, subdivisions, or municipalities if the vehicle is registered in the name of the agency."

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, 2008.

Became law upon approval of the Governor at 3:36 a.m. on the 3rd day of August, 2008.

Session Law 2008-161

H.B. 2410

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF AGING AND ADULT SERVICES, AND DIVISION OF MEDICAL ASSISTANCE, TO STUDY IMPLEMENTATION OF AN INCOME DISREGARD POLICY FOR CURRENT STATE/COUNTY SPECIAL ASSISTANCE AND MEDICAID RECIPIENTS WHO ARE ADVERSELY IMPACTED DUE TO COST OF LIVING OR OTHER INCOME INCREASES, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services, Division of Aging and Adult Services, and Division of Medical Assistance shall study implementation of an income disregard policy for current State/County Special Assistance and Medicaid residents who are adversely impacted due to cost of living or other income increases.

SECTION 1.(b) The Department of Health and Human Services, Division of Aging and Adult Services, and Division of Medical Assistance shall report the findings and recommendations of the study contained in this section to the Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services, and the House of Representatives Appropriations Subcommittee on Health and Human Services, on or before October 1, 2009.

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

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 3:37 a.m. on the 3rd day of August, 2008.

Session Law 2008-162

H.B. 2432

AN ACT TO DIRECT THE NORTH CAROLINA DIVISION OF EMERGENCY MANAGEMENT, IN CONSULTATION WITH THE NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS, TO STUDY AND DEVELOP PLANS TO ENHANCE DISASTER MANAGEMENT CAPABILITIES AT THE COUNTY LEVEL; AND TO ALLOW THE ADJUTANT GENERAL OF THE

NATIONAL GUARD TO APPOINT A DEPUTY ADJUTANT GENERAL WHO HOLDS THE RANK OF MAJOR GENERAL.

The General Assembly of North Carolina enacts:

SECTION 1. The Division of Emergency Management, in consultation with the North Carolina Association of County Commissioners, shall study ways and develop plans to increase the capabilities of counties to plan for, respond to, and manage disasters at the local level. Plans developed shall include time lines for implementation and estimates of funding needs and shall address:

- (1) Mandating, if determined necessary, the establishment and maintenance of emergency management agencies at the county level.
- (2) Increasing the number of counties employing full-time emergency management coordinators, such that every county in the State, either individually or pursuant to a joint undertaking between two or more counties, has a full-time local emergency management coordinator available.
- (3) Implementing an emergency management certification requirement for all local emergency management coordinators and other essential local emergency management personnel.
- (4) Developing a model registry for use by the counties in identifying functionally and medically fragile persons in need of assistance during a disaster and in allocating resources to meet those needs.
- (5) Establishing a registry program for functionally and medically fragile persons in all counties.

SECTION 2. The Division of Emergency Management shall report the results of its study and provide the plans developed to the Chairs of the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery and the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources no later than December 1, 2008.

SECTION 3. G.S. 127A-19 reads as rewritten:

"§ 127A-19. Adjutant General.

The military head of the militia shall be the Adjutant General who shall hold the rank of major general. The Adjutant General shall be appointed by the Governor in his capacity as commander in chief of the militia, in consultation with the Secretary of Crime Control and Public Safety, and shall serve at the pleasure of the Governor. No person shall be appointed as Adjutant General who has less than five years' commissioned service in an active status in any component of the armed forces of the United States. The Adjutant General, while holding such office, may be a member of the active national guard or naval militia.

Subject to the approval of the Governor and in consultation with the Secretary, Department of Crime Control and Public Safety, the Adjutant General may appoint (i) a deputy adjutant general for Army National Guard, who may hold the rank of major general, and (ii) an assistant adjutant general for Army National Guard, and an assistant adjutant general for Air National Guard, each of whom may hold the rank of brigadier general and who shall serve at the pleasure of the Governor. The Adjutant General may also employ such staff members and other personnel as may be authorized by the Secretary and funded."

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, 2008.

Became law upon approval of the Governor at 3:37 a.m. on the 3rd day of August, 2008.

Session Law 2008-163**H.B. 1563**

AN ACT TO PROVIDE LINE-OF-DUTY DEATH BENEFITS TO FIRE AND RESCUE INSTRUCTORS WHO ARE OTHERWISE ELIGIBLE FOR THESE BENEFITS BUT WHO ARE NOT CURRENTLY COVERED WHILE CONDUCTING FIRE AND RESCUE TRAINING OUTSIDE THEIR OWN DEPARTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina or any county or municipality thereof, whether paid or unpaid; and all full-time custodial employees and probation and parole officers of the North Carolina Department of Correction; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Department of Juvenile Justice and Delinquency Prevention and full-time, permanent part-time, and temporary detention officers employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen" shall mean both ~~"eligible fireman"; or "fireman"~~ "eligible firemen" 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~~ activated; and shall mean all otherwise eligible persons who, while actively engaged as firefighters or rescue squad workers, are acting in the capacity of a fire or rescue instructor outside their own department or squad. 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 2. This act becomes effective June 1, 2008, and applies to workers' compensation claims arising from injuries occurring on or after that date and to death benefits awarded on or after that date under Article 12A of Chapter 143 of the General Statutes.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 3:38 a.m. on the 3rd day of August, 2008.

Session Law 2008-164

H.B. 2318

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ENTER INTO PRIVATE PARTNERSHIP AGREEMENTS FOR CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18(39) reads as rewritten:

"§ 136-18. **Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

- (39) To enter into partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, with priority given to highways, roads, streets, and ~~bridges~~bridges, and to plan, design, develop, acquire, construct, equip, maintain, and operate highways, roads, streets, bridges, and existing rail, as well as properties adjoining existing rail lines in this State. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. Any contracts for construction of highways, roads, streets, and bridges which are awarded pursuant to an agreement entered into under this section shall comply with the competitive bidding requirements of Article 2 of this Chapter."

SECTION 2. G.S. 136-28.6 reads as rewritten:

"§ ~~136-28.6. Private contract participation~~ Participation by the Department of Transportation with private developers.

- (a) The Department of Transportation may participate in private engineering and construction contracts for State highways.
- (b) In order to qualify for State participation, the project must be:
- (1) The construction of a street or highway on the Transportation Improvement Plan adopted by the Department of Transportation; or
 - (2) The construction of a street or highway on a mutually adopted transportation plan that is designated a Department of Transportation responsibility.
- (c) Only those projects in which ~~the developer furnishes~~ the right-of-way is furnished without cost to the Department of Transportation are eligible.
- (d) The Department's participation shall be limited to fifty percent (50%) of the amount of any engineering contract and/or any construction contract let ~~by the developer~~ for the project.
- (e) ~~Participation~~ Department of Transportation participation in the contracts shall be limited to cost associated with normal practices of the Department of Transportation.
- (f) Plans for the project must meet Department of Transportation standards and shall be approved by the Department of Transportation.
- (g) Projects shall be constructed in accordance with the plans and specifications approved by the Department of Transportation.
- (h) The Secretary shall report in writing, on a quarterly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between a private developer and the Department of Transportation for participation in private engineering and construction contracts under this section.
- (i) ~~Municipalities~~ Counties and municipalities may participate financially in private ~~engineering~~ engineering, land acquisition, and construction contracts for projects pertaining to streets or highways which ~~are on a mutually adopted transportation plan for said municipality~~ meet the requirements of subsection (b) of this section within their jurisdiction."

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, 2008.

Became law upon approval of the Governor at 3:38 a.m. on the 3rd day of August, 2008.

Session Law 2008-165

H.B. 1770

AN ACT TO CLARIFY THE AUTHORITY OF THE PARTIES TO CONSERVATION AND PRESERVATION AGREEMENTS TO INCLUDE PROVISIONS IN THE AGREEMENTS FOR THE PAYMENT OF FEES UPON FUTURE CONVEYANCE OF PROPERTY SUBJECT TO THE AGREEMENTS AND TO ALLOW SPECIAL ASSESSMENTS TO BE PAID IN MORE THAN TEN ANNUAL INSTALLMENTS AND TO BE PLEDGED TO THE REPAYMENT OF REVENUE BONDS ISSUED FOR CRITICAL INFRASTRUCTURE NEEDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 121-38 reads as rewritten:

"§ 121-38. Validity of agreements.

- (a) No conservation or preservation agreement shall be unenforceable because of
- (1) Lack of privity of estate or contract, or
 - (2) Lack of benefit to particular land or person, or
 - (3) The assignability of the benefit to another holder as defined in this Article.
- (b) ~~Such~~ These agreements are interests in land and may be acquired by any holder in the same manner as it may acquire other interests in land.
- (c) ~~Such~~ These agreements may be effective perpetually or for shorter stipulated periods of time.
- (d) ~~Such~~ These agreements may impose present, future, or continuing obligations on either party to the agreement, or their successors, in furtherance of the purposes of the agreement.
- (e) These agreements may contain provisions which require the payment of a fee upon a future conveyance of the property that is subject to the agreement."

SECTION 2. Chapter 153A of the General Statutes is amended by adding a new Article to read:

"Article 9A.

"Special Assessments for Critical Infrastructure Needs.

"§ 153A-210.1. Purpose.

This Article enables counties that face increased demands for infrastructure improvements as a result of rapid growth and development to issue revenue bonds payable from special assessments imposed under this Article on benefited property. This Article supplements the authority counties have in Article 9 of this Chapter. The provisions of Article 9 of this Chapter apply to this Article, to the extent they do not conflict with this Article.

"§ 153A-210.2. Assessments.

(a) Projects. – The board of commissioners of a county may make special assessments as provided in this Article against benefited property within the county for the purpose of financing the capital costs of projects for which bonds may be issued under any of the following:

- (1) G.S. 159-48(b)(17), sanitary sewer systems.
- (2) G.S. 159-48(b)(19), storm sewers and flood control facilities.
- (3) G.S. 159-48(b)(21), water systems.
- (4) G.S. 159-48(b)(23), public transportation facilities.
- (5) G.S. 159-48(c)(4), school facilities.
- (6) G.S. 159-48(d)(5), streets and sidewalks.

(b) Costs. – The board of commissioners must determine a project's total estimated cost. In addition to the costs allowed under G.S. 153A-193, the costs may include any expenses allowed under G.S. 159-84. A preliminary assessment roll may be prepared, and an assessment may be imposed before the costs are incurred, based on the estimated cost.

(c) Method. – The board of commissioners must establish an assessment method that will most accurately assess each lot or parcel of land according to the benefits conferred upon it by the project for which the assessment is made. In addition to the bases upon which assessments may be made under G.S. 153A-186, the board may select any other method designed to allocate the costs in accordance with benefits conferred.

"§ 153A-210.3. Petition required.

(a) Petition. – The board of commissioners may not impose a special assessment under this Article unless it receives a petition for the project to be financed by the assessment signed by at least a majority of the owners of real property to be assessed who must represent at least sixty-six percent (66%) of the assessed value of all real property to be assessed. The petition must include the following:

- (1) A statement of the project proposed to be financed in whole or in part by the imposition of an assessment under this Article.
- (2) An estimate of the cost of the project.
- (3) An estimate of the portion of the cost of the project to be assessed.

(b) Petition Withdrawn. – The board of commissioners must wait at least 10 days after the public hearing on the preliminary assessment resolution before adopting a final assessment resolution. A petition submitted under subsection (a) of this section may be withdrawn if notice of petition withdrawal is given in writing to the board signed by at least a majority of the owners who signed the petition submitted under subsection (a) of this section representing at least fifty percent (50%) of the assessed value of all real property to be assessed. The board may not adopt a final assessment resolution if it receives a timely notice of petition withdrawal.

(c) Validity of Assessment. – No right of action or defense asserting the invalidity of an assessment on grounds that the county did not comply with this section may be asserted except in an action or proceeding begun within 90 days after publication of the notice of adoption of the preliminary assessment resolution.

"§ 153A-210.4. Financing a project for which an assessment is imposed.

A board of commissioners may provide for the payment of the cost of a project for which an assessment may be imposed under this Article solely from revenue bonds to be repaid from the assessments or from a combination of financing sources that include the revenue bonds. Other financing sources include general obligation bonds and general revenues. The assessment resolution must include the estimated cost of the project and the amount of the cost to be derived from revenue bonds and any other financing source.

"§ 153A-210.5. Payment of assessments by installments.

An assessment imposed under this Article is payable in annual installments. The board of commissioners must set the number of annual installments, which may not be more than 30. The installments are due on the date that property taxes are due.

"§ 153A-210.6. Revenue bonds.

(a) Authorization. – A board of commissioners that imposes an assessment under this Article may issue revenue bonds under Article 5 of Chapter 159 of the General Statutes to finance the project for which the assessment is imposed and use the proceeds of the assessment imposed as revenues pertaining to the project.

(b) Modifications. – This Article specifically modifies the authority of a county to issue revenue bonds under Article 5 of Chapter 159 of the General Statutes by extending the authority in that Article to include a project for which an assessment may be imposed under this Article. In applying the provisions of Article 5, the following definitions apply:

- (1) Revenue bond project. – Defined in G.S. 159-81(3). The term includes projects for which an assessment is imposed under this Article.
- (2) Revenues. – Defined in G.S. 159-81(4). The term includes assessments imposed under this Article to finance a project allowed under this Article."

SECTION 3. Chapter 160A of the General Statutes is amended by adding a new article to read:

"Article 10A.

"Special Assessments for Critical Infrastructure Needs.

"§ 160A-239.1. Purpose.

This Article enables cities that face increased demands for infrastructure improvements as a result of rapid growth and development to issue revenue bonds payable from special assessments imposed under this Article on benefited property. This Article supplements the authority cities have in Article 10 of this Chapter. The provisions of Article 10 of this Chapter apply to this Article, to the extent they do not conflict with this Article.

"§ 160A-239.2. Assessments.

(a) Projects. – The council of a city may make special assessments against benefited property within the city for the purpose of financing the capital costs of projects for which bonds may be issued under any of the following:

- (1) G.S. 159-48(b)(17), sanitary sewer systems.
- (2) G.S. 159-48(b)(19), storm sewers and flood control facilities.
- (3) G.S. 159-48(b)(21), water systems.
- (4) G.S. 159-48(b)(23), public transportation facilities.
- (5) G.S. 159-48(c)(4), school facilities.
- (6) G.S. 159-48(d)(5), streets and sidewalks.

(b) Costs. – The city council must determine a project's total estimated cost. In addition to the costs allowed under G.S. 153A-193, the costs may include any expenses allowed under G.S. 159-84. An assessment may be imposed before the costs are incurred, based on the estimated cost.

(c) Method. – The city council must establish an assessment method that will most accurately assess each lot or parcel of land according to the benefits conferred upon it by the project for which the assessment is made. In addition to the bases upon which assessments may be made under G.S. 153A-186, the council may select any other method designed to allocate the costs in accordance with benefits conferred.

"§ 160A-239.3. Petition required.

(a) Petition. – The city council may not impose a special assessment under this Article unless it receives a petition for the project to be financed by the assessment signed by at least a majority of the owners of real property to be assessed who must represent at least sixty-six percent (66%) of the assessed value of all real property to be assessed. The petition must include the following:

- (1) A statement of the project proposed to be financed in whole or in part by the imposition of an assessment under this Article.
- (2) An estimate of the cost of the project.
- (3) An estimate of the portion of the cost of the project to be assessed.

(b) Petition Withdrawn. – The city council must wait at least 10 days after the public hearing on the preliminary assessment resolution before adopting a final assessment resolution. A petition submitted under subsection (a) of this section may be withdrawn if notice of petition withdrawal is given in writing to the council signed by at least a majority of the owners who signed the petition submitted under subsection (a) of this section representing at least fifty percent (50%) of the assessed value of all real property to be assessed. The council may not adopt a final assessment resolution if it receives a timely notice of petition withdrawal.

(c) Validity of Assessment. – No right of action or defense asserting the invalidity of an assessment on grounds that the city did not comply with this section may be asserted except in an action or proceeding begun within 90 days after publication of the notice of adoption of the preliminary assessment resolution.

"§ 160A-239.4. Financing a project for which an assessment is imposed.

A city council may provide for the payment of the cost of a project for which an assessment may be imposed under this Article solely from revenue bonds to be repaid from the assessments or from a combination of financing sources that include the revenue bonds. Other financing sources include general obligation bonds and general revenues. The assessment resolution must include the estimated cost of the project and the amount of the cost to be derived from revenue bonds and any other financing source.

"§ 160A-239.5. Payment of assessments by installments.

An assessment imposed under this Article is payable in annual installments. The city council must set the number of annual installments, which may not be more than 30. The installments are due on the date that property taxes are due.

"§ 160A-239.6. Revenue bonds.

(a) Authorization. – A city council that imposes an assessment under this Article may issue revenue bonds under Article 5 of Chapter 159 of the General Statutes to finance the project for which the assessment is imposed and use the proceeds of the assessment imposed as revenues pertaining to the project.

(b) Modifications. – This Article specifically modifies the authority of a city to issue revenue bonds under Article 5 of Chapter 159 of the General Statutes by extending the authority in that Article to include a project for which an assessment may be imposed under this Article. In applying the provisions of Article 5, the following definitions apply:

- (1) Revenue bond project. – Defined in G.S. 159-81(3). The term includes projects for which an assessment is imposed under this Article.
- (2) Revenues. – Defined in G.S. 159-81(4). The term includes assessments imposed under this Article to finance a project allowed under this Article."

SECTION 4. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 5. This act is effective when it becomes law. Sections 2 and 3 of this act expire July 1, 2013. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this act prior to the effective date of the expiration.

In the General Assembly read three times and ratified this the 16th day of July, 2008.

Became law upon approval of the Governor at 3:46 a.m. on the 3rd day of August, 2008.

Session Law 2008-166

H.B. 2409

AN ACT TO REQUIRE MULTIUNIT ASSISTED HOUSING WITH SERVICES (MAHS) PROGRAMS TO REGISTER ANNUALLY WITH THE DIVISION OF HEALTH SERVICE REGULATION AND TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH

CERTAIN FEES, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-2(a)(7a) reads as rewritten:

"(7a) Effective July 1, 1996, "multiunit assisted housing with services" means an assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to ~~register~~register annually with the Division of Health Service ~~Regulation and to provide a disclosure statement.~~Regulation. The Department shall charge each registered multiunit assisted housing with services program a nonrefundable annual registration fee of three hundred and fifty dollars (\$350.00). Any individual or corporation that establishes, conducts, manages, or operates a multiunit housing with services program, subject to registration under this section, that fails to register is guilty of a Class 3 misdemeanor, and upon conviction shall be punishable only by a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense. Multiunit assisted housing with services programs are required to provide a disclosure statement to the Division of Health Service Regulation. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:

- a. Emergency response system;
- b. Charges for services offered;
- c. Limitations of tenancy;
- d. Limitations of services;
- e. Resident responsibilities;
- f. Financial/legal relationship between housing management and home care or hospice agencies;
- g. A listing of all home care or hospice agencies and other community services in the area;
- h. An appeals process; and

- i. Procedures for required initial and annual resident screening and referrals for services.

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

SECTION 2. This act becomes effective January 1, 2010.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 3:47 a.m. on the 3rd day of August, 2008.

Session Law 2008-167

H.B. 887

AN ACT TO CLARIFY AND EXPAND THE CRIMINAL OFFENSE OF STALKING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-277.3 is repealed.

SECTION 2. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-277.3A. Stalking.

(a) Legislative Intent. – The General Assembly finds that stalking is a serious problem in this State and nationwide. Stalking involves severe intrusions on the victim's personal privacy and autonomy. It is a crime that causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others, even in the absence of express threats of physical harm. Stalking conduct often becomes increasingly violent over time.

The General Assembly recognizes the dangerous nature of stalking as well as the strong connections between stalking and domestic violence and between stalking and sexual assault. Therefore, the General Assembly enacts this law to encourage effective intervention by the criminal justice system before stalking escalates into behavior that has serious or lethal consequences. The General Assembly intends to enact a stalking statute that permits the criminal justice system to hold stalkers accountable for a wide range of acts, communications, and conduct. The General Assembly recognizes that stalking includes, but is not limited to, a pattern of following, observing, or monitoring the victim, or committing violent or intimidating acts against the victim, regardless of the means.

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

- (1) Course of conduct. – Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (2) Harasses or harassment. – Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized

or electronic transmissions directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.

- (3) Reasonable person. – A reasonable person in the victim's circumstances.
- (4) Substantial emotional distress. – Significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) Offense. – A defendant is guilty of stalking if the defendant willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following:

- (1) Fear for the person's safety or the safety of the person's immediate family or close personal associates.
- (2) Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

(d) Classification. – A violation of this section is a Class A1 misdemeanor. A defendant convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A defendant who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony. A defendant who commits the offense of stalking when there is a court order in effect prohibiting the conduct described under this section by the defendant against the victim is guilty of a Class H felony.

(e) Jurisdiction. – Pursuant to G.S. 15A-134, if any part of the offense occurred within North Carolina, including the defendant's course of conduct or the effect on the victim, then the defendant may be prosecuted in this State."

SECTION 3. This act becomes effective December 1, 2008, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 3:49 a.m. on the 3rd day of August, 2008.

Session Law 2008-168

H.B. 2443

AN ACT TO REWRITE GENERAL STATUTE PROVISIONS PERTAINING TO HEALTH AND LONG-TERM CARE BENEFITS FOR TEACHERS, STATE EMPLOYEES, RETIRED STATE EMPLOYEES, AND THEIR ELIGIBLE DEPENDENTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Effective July 1, 2008, Article 3 of Chapter 135 of the General Statutes is recodified as Article 3A of Chapter 135 of the General Statutes.

SECTION 1.(b) Effective July 1, 2008, the title of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, reads as rewritten:

~~"Other Teacher, Employee Benefits; Child Health Benefits.~~

Other Benefits for Teachers, State Employees, Retired State Employees, and Child Health."

SECTION 1.(c) Effective July 1, 2008, Part 1 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, is recodified as Part 1A of Article 3A of Chapter 135 of the General Statutes.

SECTION 1.(d) Effective July 1, 2008, G.S. 135-37, as amended by Section 28.22A of S.L. 2007-323, is recodified as G.S. 135-37.1 under Part 1A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-37.1. Confidentiality of information and medical records; provider contracts.

(a) Any information as herein described in this section which is in the possession of the Executive Administrator and the Board of Trustees of the State Health Plan for Teachers and State Employees or its Claims Processor under the Plan or the Predecessor Plan shall be confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public. This section shall apply to all information concerning individuals, including the fact of coverage or noncoverage, whether or not a claim has been filed, medical information, whether or not a claim has been paid, and any other information or materials concerning a plan participant. Provided, however, such information may be released to the State Auditor, or to the Attorney General, or to the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and responsibilities, or to such persons or organizations as may be designated and approved by the Executive Administrator and Board of Trustees of the Plan, but any information so released shall remain confidential as stated above and any party obtaining such information shall assume the same level of responsibility for maintaining such confidentiality as that of the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees.

(b) Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees may contract with providers of institutional and professional medical care and services to establish preferred provider networks. The terms pertaining to reimbursement rates or other terms of consideration of any contract between hospitals, hospital authorities, doctors, or other medical providers, or a pharmacy benefit manager and the Plan, or contracts pertaining to the provision of any medical benefit offered under the Plan, including its ~~optional plans or programs~~, optional alternative comprehensive benefit plans, and programs available under the optional alternative plans, shall not be a public record under Chapter 132 of the General Statutes for a period of 30 months after the date of the expiration of the contract. Provided, however, nothing in this subsection shall be deemed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities. The design, adoption, and implementation of the preferred provider contracts, networks, and ~~optional plans or programs~~ optional alternative comprehensive health benefit plans, and programs available under the optional alternative plans, as authorized under G.S. 135-40 are not subject to the requirements of Chapter 143 of the General Statutes. The Executive Administrator and Board of Trustees shall make reports as requested to the President of the Senate, the

President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical ~~Benefits on its progress in negotiating the preferred provider contracts.~~Benefits."

SECTION 1.(e) Effective July 1, 2008, G.S. 135-38 is recodified as G.S. 135-37.2 under Part 1A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ **135-37.2. Committee on Employee Hospital and Medical Benefits.**

(a) The Committee on Employee Hospital and Medical Benefits shall consist of 12 members as follows:

- (1) The President Pro Tempore of the Senate or a designee thereof;
- ~~(2a)(2)~~The Speaker of the House of Representatives or a designee thereof;
- ~~(3a)(3)~~Five members of the Senate appointed by the President Pro Tempore of the Senate; and
- ~~(4a)(4)~~Five members of the House of Representatives appointed by the Speaker.

(b) The President Pro Tempore of the Senate and the Speaker of the House of Representatives, or their designees, shall remain on the Committee for the duration of their terms in those offices. Terms of the other Committee members are for two ~~years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment and expire January 14, 1997.~~years. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. Members shall serve until their successors are appointed.

(c) The Committee shall review programs of hospital, medical and related care provided by ~~Part 3 and~~ Part 3A and Part 5 of this Article and programs of long-term care benefits provided by ~~Part 4~~Part 4A of this Article as recommended by the Executive Administrator and Board of Trustees of the Plan. The Executive Administrator and the Board of Trustees shall provide the Committee with any information or assistance requested by the Committee in performing its duties under this Article. The Committee shall meet not less than once each quarter to review the actions of the Executive Administrator and Board of Trustees. At each meeting, the Executive Administrator shall report to the Committee on any administrative and medical policies which have been issued as rules ~~and regulations~~ in accordance with ~~G.S. 135-39.8,~~G.S. 135-38.11 and on any benefit denials, resulting from the policies, which have been appealed to the Board of Trustees.

(d) The time members spend on Committee business shall be considered official legislative business for purposes of G.S. 120-3."

SECTION 1.(f) G.S. 135-38.1, as amended by Section 28.22A(o) of S.L. 2007-323, is recodified under Part 1A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 2.(a) Effective July 1, 2008, Part 2 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, is recodified as Part 2A of Article 3A of Chapter 135 of the General Statutes.

SECTION 2.(b) Effective July 1, 2008, G.S. 135-39.3, as amended by S.L. 2007-323(o), is recodified as G.S. 135-37.3 under Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-37.3. Oversight team.

(a) The Committee on Employee Hospital and Medical Benefits may use employees of the Legislative Services Office and may employ contractual services as approved by the Legislative Services Commission to monitor the Executive Administrator and Board of Trustees, the Claims Processor, and the State Health Plan for Teachers and State Employees. The Director of the Budget may use employees of the Office of State Budget and Management to monitor the Executive Administrator and Board of Trustees, the Claims Processor, and the State Health Plan for Teachers and State Employees. Such assistance—Employees authorized by the Legislative Services Commission and the Director of the Budget to provide assistance to the Committee on Employee Hospital and Medical Benefits and to the Director of the Budget shall comprise an oversight team.

(b) The oversight team shall, jointly or individually, have access to all records of the Board of Trustees, the Executive Administrator, the Claims Processor, and the ~~Comprehensive Major Medical~~ Plan. They—The oversight team shall, jointly or individually, be entitled to attend all meetings of the Board of Trustees.

(c) The oversight team shall report to the Committee on Employee Hospital and Medical Benefits when requested by the Committee."

SECTION 2.(c) G.S. 135-39.9 is recodified as G.S. 135-37.4 under Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-37.4. Reports to the General Assembly.

(a) The Executive Administrator and Board of Trustees shall report to the General Assembly at such times and in such forms as shall be ~~provided—designated~~ by the Committee on Employee Hospital and Medical Benefits."

SECTION 2.(d) G.S. 135-39.11 is recodified as G.S. 135-37.5 under Part 2A of this Article, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-37.5. ~~Contract disputes.~~Contract disputes not contested case under the Administrative Procedure Act, Chapter 150B of the General Statutes.

A dispute involving the performance, terms, or conditions of a contract between the Plan and an entity under contract with the Plan is not a contested case under Article 3 of Chapter 150B of the General Statutes."

SECTION 2.(e) G.S. 135-39, as amended by Section 28.22A(o) of S.L. 2007-323, is recodified as G.S. 135-38.2 under Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-38.2. Board of Trustees established.

(a) There is ~~hereby~~ established the Board of Trustees of the State Health Plan for Teachers and State Employees ("Board").

~~(a)~~(b) The Board shall consist of nine members.

~~(b)~~(c) Three members shall be appointed by the Governor. ~~Of the initial members, one shall serve a term to expire June 30, 1983, and two shall serve terms to expire June 30, 1984. Subsequent terms~~Terms shall be for two years. Vacancies shall be filled by the Governor. Of the members appointed by the Governor, one shall be either:

- (1) An employee of a State department, agency, or institution;
- (2) A teacher employed by a North Carolina public school system;
- (3) A retired employee of a State department, agency, or institution; or
- (4) A retired teacher from a North Carolina public school system.

~~(c)~~(d) Three members 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. ~~Of the initial members, two shall serve terms expiring June 30, 1983, and one shall serve a term expiring June 30, 1984. Terms shall be for two years.~~ Vacancies shall be filled in accordance with G.S. 120-122.

~~(d)~~(e) Three members 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. ~~Of the initial members, two shall serve terms expiring June 30, 1983, and one shall serve a term expiring June 30, 1984. Terms shall be for two years.~~ Vacancies shall be filled in accordance with G.S. 120-122.

~~(e)~~(f) ~~The Governor shall have the power to remove any member appointed by him under subsection (b). The General Assembly may remove any member appointed under subsections (e) or (d). Each appointing authority may remove any member appointed by that appointing authority.~~

~~(f)~~(g) The members of the Board of Trustees shall receive one hundred dollars (\$100.00) per day, except employees eligible to enroll in the Plan, whenever the full Board of Trustees holds a public session, and travel allowances under G.S. 138-6 when traveling to and from meetings of the Board of Trustees or hearings under ~~G.S. 135-39.7, G.S. 135-38.10,~~ but shall not receive any subsistence allowance or per diem under G.S. 138-5, except when holding a meeting or hearing where this section does not provide for payment of one hundred dollars (\$100.00) per day.

(h) No member of the Board of Trustees may serve more than three consecutive two-year terms.

(i) Meetings of the Board of Trustees may be called by the Executive Administrator, the ~~Chairman, Chair,~~ or by any three members."

SECTION 2.(f) G.S. 135-39.2 is recodified as G.S. 135-38.3 under Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-38.3. Officers, quorum, meetings.

(a) The Board of Trustees shall elect from its own membership such officers as it sees fit.

(b) Six members of the Board of Trustees in office shall constitute a quorum. Decisions of the Board of Trustees shall be made by a majority vote of the Trustees present, except as otherwise provided in this Part.

(c) Meetings may be called by the ~~Chairman, Chair,~~ or at the written request of three members."

SECTION 2.(g) G.S. 135-39.1, as amended by Section 28.22A(o) of S.L. 2007-323, is recodified as G.S. 135-38.4 under Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 2.(h) G.S. 135-39.4A, as amended by Section 28.22A of S.L. 2007-323, is recodified as G.S. 135-38.5 under Part 2A of Article 3A of Chapter 135 of the General Statutes as enacted by this act, and as recodified, reads as rewritten:

"§ 135-38.5. Executive Administrator.

(a) The Plan shall have an Executive 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.

~~(f)~~(c) 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 designate managerial, professional, or policy-making positions as exempt from the State Personnel Act. The Executive Administrator may also negotiate, renegotiate and execute contracts with third parties in the performance of ~~his~~the Executive Administrator's duties and responsibilities under this Article; provided any contract negotiations, renegotiations and execution with a Claims Processor, with ~~an optional hospital and medical benefit plan or program authorized under G.S. 135-40,~~an optional alternative comprehensive health benefit plan, or program thereunder, authorized under G.S. 135-39.12, 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)~~(d) 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)~~(e) 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 2.(i) G.S. 135-39.10, as amended by Section 28.22A(d),(o) of S.L. 2007-323, is recodified as G.S. 135-38.6 under Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 2.(j) G.S. 135-39.5 is recodified as G.S. 135-38.7 under Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-38.7. Powers and duties of the Executive Administrator and Board of Trustees.

The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall have the following powers and duties:

- (1) Supervising and monitoring of the Claims Processor.
- (2) Providing for enrollment of employees in the Plan.
- (3) Communicating with employees enrolled under the Plan.

- (4) Communicating with health care providers providing services under the Plan.
- (5) Making payments at appropriate intervals to the Claims Processor for benefit costs and administrative costs.
- (6) Conducting administrative reviews under ~~G.S. 135-39.7~~G.S. 135-38.10.
- (7) Annually assessing the performance of the Claims Processor.
- (8) Preparing and submitting to the Governor and the General Assembly cost estimates for the ~~health benefits plan~~, Plan, including those required by Article 15 of Chapter 120 of the General Statutes.
- (9) Recommending to the Governor and the General Assembly changes or additions to the health benefits ~~program~~programs and health care cost containment ~~programs~~, programs offered under the Plan, together with statements of financial and actuarial effects as required by Article 15 of Chapter 120 of the General Statutes.
- (10) Working with State employee groups to improve health benefit programs.
- (11) Repealed by Session Laws 1985, c. 732, s. 9.
- (12) Determining basis of payments to health care providers, including payments in accordance with G.S. 58-50-56. ~~The Comprehensive Major Medical Plan and optional plans and programs adopted pursuant to G.S. 135-39.5B shall comply with G.S. 58-3-225.~~
- (13) Requiring bonding of the Claims Processor in the handling of State funds.
- (14) Repealed by Session Laws 1985, c. 732, s. 7.
- (15) In case of termination of the contract under ~~G.S. 135-39.5A~~, subdivision (29) of this section, to select a new Claims Processor, after ~~competitive~~-bidding procedures approved by the Department of Administration.
- (16) Notwithstanding the provisions of ~~Part 3~~ Part 3A of this Article, to formulate and implement cost-containment measures which are not in direct conflict with that Part.
- (17) Implementing pilot programs necessary to evaluate proposed cost containment measures which are not in direct conflict with ~~Part 3~~ Part 3A of this Article, and expending funds necessary for the implementation of ~~such~~the pilot programs.
- (18) Authorizing coverage for alternative forms of care not otherwise provided by the Plan in individual cases when medically necessary, medically equivalent to services covered by the Plan, and when such alternatives would be less costly than would have been otherwise.
- (19) Establishing and operating a hospital and other provider bill audit program and a fraud detection program.
- (20) Determining administrative and medical policies that are not in direct conflict with ~~Part 3~~ Part 3A of this Article ~~upon the advice of~~ after consultation with the Claims Processor and ~~upon the advice of~~ the Plan's consulting actuary when Plan costs are involved.
- (21) Supervising the payment of claims and all other disbursements under this Article, including the recovery of any disbursements that are not made in accordance with the provisions of this Article.

- (22) Implementing and administering a program of long-term care benefits pursuant to ~~Part 4~~ Part 4A of this Article.
- (23) Implementing and administering a program of child health insurance benefits pursuant to Part 5 of this Article.
- (24) Implementing and administering a case management and disease management ~~program~~ program and a wellness program.
- (25) Implementing and administering a pharmacy benefit management program through a third-party contract awarded after receiving competitive quotes.
- (26) ~~Increasing annually the amount of the annual deductible and annual aggregate maximum deductible. The increase shall be established by determining the ratio of the CPI Medical Index to such index one year earlier. If the ratio indicates an increase in the CPI Medical Index, then the amount of the annual deductible and annual aggregate maximum deductible may be increased by not more than the percentage increase in the CPI Medical Index. As used in this subdivision, the term "CPI Medical Index" means the U.S. Consumer Price Index for All Urban Consumers for Total Medical Care.~~
- (27) The Executive Administrator may establish pilot programs to measure potential cost savings and improvements in patient care available through local, provider-driven medical management.
- (28) It is the intent of the General Assembly that active employees and retired employees covered under the Plan and its successor Plan shall have several opportunities in each fiscal year to attend presentations conducted by Plan management staff providing detailed information about benefits, limitations, premiums, co-payments, and other pertinent Plan matters. To this end, beginning in 2007 and annually thereafter, the Plan's management staff shall conduct multiple presentations each year to Plan members and association groups representing active and retired employees across all geographic regions of the State. Regional meetings shall be held in locations that afford reasonably convenient access to Plan members. The presentations shall be designed not only to present information about the Plan but also to hear and respond to Plan members' questions and concerns.
- (29) The Executive Administrator and Board of Trustees may terminate the contract with the Claims Processor ~~as provided in the request for proposal~~ in accordance with the terms of the contract.
- (30) The prompt pay requirements of G.S. 58-3-225 apply to the Plan.

SECTION 2.(k) G.S. 135-39.5A is recodified as G.S. 135-38.7(29), as enacted by this act.

SECTION 2.(l) G.S. 135-39.6 is recodified as G.S. 135-38.8 under Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified reads as rewritten:

"§ 135-38.8. Special Health benefit trust funds created.

(a) There are hereby established two ~~special health benefit trust funds~~, to be known as the Public Employee Health Benefit Fund and the Health Benefit Reserve Fund for the payment of hospital and medical benefits. As used in this section, the term

"health benefit trust funds" refers to the fund type described under G.S. 143C-1-3(a)(10).

All premiums, fees, charges, rebates, refunds or any other receipts including, but not limited to, earnings on investments, occurring or arising in connection with health benefits programs established by this Article, shall be deposited into the Public Employee Health Benefit Fund. Disbursements from the Fund shall include any and all amounts required to pay the benefits and administrative costs of such programs as may be determined by the Executive Administrator and Board of Trustees.

Any unencumbered balance in excess of prepaid premiums or charges in the Public Employee Health Benefit Fund at the end of each fiscal year shall be used first, to provide an actuarially determined Health Benefit Reserve Fund for incurred but unrepresented claims, second, to reduce the premiums required in providing the benefits of the health benefits programs, and third to improve the plan, as may be provided by the General Assembly. The balance in the Health Benefits Reserve Fund may be transferred from time to time to the Public Employee Health Benefit Fund to provide for any deficiency occurring therein.

The Public Employee Health Benefit Fund and the Health Benefit Reserve Fund shall be deposited with the State Treasurer and invested as provided in G.S. 147-69.2 and 147-69.3.

(b) Disbursement from the Public Employee Health Benefit Fund may be made by warrant drawn on the State Treasurer by the Executive Administrator, or the Executive Administrator and Board of Trustees may by contract authorize the Claims Processors to draw the warrant.

(c) Separate and apart from the ~~special-health benefit trust~~ funds authorized by subsections (a) and (b) of this section, there shall be a Public Employee Long-Term Care Benefit Fund if the long-term care benefits provided by Part 4 of this Article are administered on a self-insured basis.

(d) Separate and apart from the special funds authorized by subsections (a), (b), and (c) of this section, there shall be a Child Health Insurance Fund. All premium receipts or any other receipts, including earnings on investments, occurring or arising in connection with acute medical care benefits provided under the Health Insurance Program for Children shall be deposited into the Child Health Insurance Fund. Disbursements from the Child Health Insurance Fund shall include any and all amounts required to pay the benefits and administrative costs of the Health Insurance Program for Children as may be determined by the Executive Administrator and Board of Trustees."

SECTION 2.(m) G.S. 135-39.6A, as amended by Section 11 of S.L. 2007-345, and as further amended by Section 28.22A(m),(o) of S.L. 2007-323, is recodified as G.S. 135-38.9 under Part 2A of Article 3 of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-38.9. Premiums set.

(a) The Executive Administrator and Board of Trustees shall, from time to time, establish premium rates for the Plan except as they may be established by the General Assembly in the Current Operations Appropriations Act, and establish ~~regulations~~ rules for payment of the premiums. Premium rates shall be established for coverages where Medicare is the primary payer of health benefits separate and apart from the rates established for coverages where Medicare is not the primary payer of health benefits. The amount of State funds contributed for optional coverage for employees and retirees on a partially contributory basis shall not be more than the Plan's total noncontributory

premium for Employee Only coverage, with the person selecting the coverage paying the balance of the partially contributory premium not paid by the Plan. The amount of State funds contributed shall not exceed the Plan's cost for Employee Only coverage. The Executive Administrator and Board of Trustees shall not impose a partially contributory premium until after it has consulted on the premium and the optional coverage design with the Committee on Employee Hospital and Medical Benefits.

(b) The Executive Administrator and Board of Trustees shall establish separate premium rates for the long-term care benefits provided by ~~Part 4~~Part 4A of this Article if the benefits are administered on a self-insured basis.

(c) The Executive Administrator and Board of Trustees shall establish premium rates for benefits provided under Part 5 of this Article. The Department of Health and Human Services shall, from State and federal appropriations and from any other funds made available for the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes, make payments to the State Health Plan for Teachers and State Employees as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care for children eligible for benefits provided under Part 5 of this Article.

(d) In setting premiums for ~~firemen, firefighters,~~ rescue squad workers, and members of the national guard, and their eligible dependents, the Executive Administrator and Board of Trustees shall establish rates separate from those affecting other members of the Plan. These separate premium rates shall include rate factors for incurred but unreported claim costs, for the effects of adverse selection from voluntary participation in the Plan, and for any other actuarially determined measures needed to protect the financial integrity of the Plan for the benefit of its served employees, retired employees, and their eligible dependents.

(e) The total amount of premiums due the Plan from charter schools as employing units, including amounts withheld from the compensation of Plan members, that is not remitted to the Plan by the fifteenth day of the month following the due date of remittance shall be assessed interest of one and one-half percent (1 ½%) of the amount due the Plan, per month or fraction thereof, beginning with the sixteenth day of the month following the due date of the remittance. The interest authorized by this section shall be assessed until the premium payment plus the accrued interest amount is remitted to the Plan. The remittance of premium payments under this section shall be presumed to have been made if the remittance is postmarked in the United States mail on a date not later than the fifteenth day of the month following the due date of the remittance."

SECTION 2.(n) G.S. 135-39.7 is recodified as G.S. 135-38.10 under Part 2A of Article 3A of Chapter 135 of the General Statutes as enacted by this act, and as recodified, reads as rewritten:

"§ 135-38.10. Administrative review.

(a) If, after exhaustion of internal appeal handling as outlined in the contract with the Claims Processors any person is aggrieved, the Claims Processors shall bring the matter to the attention of the Executive Administrator and Board of Trustees, which shall promptly decide whether the subject matter of the appeal is a determination subject to external review under Part 4 of Article 50 of Chapter 58 of the General Statutes. The Executive Administrator and Board of Trustees shall inform the aggrieved person and the aggrieved person's provider of the decision and shall provide the aggrieved person notice of the aggrieved person's right to appeal that decision as provided in this subsection. If the Executive Administrator and Board of Trustees decide that the subject

matter of the appeal is not a determination subject to external review, then the Executive Administrator and Board of Trustees may make a binding decision on the matter in accordance with procedures established by the Executive Administrator and Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written summary of the decisions made pursuant to this section to all employing units, all health benefit representatives, the oversight team provided for in ~~G.S. 135-39.3~~, G.S. 135-37.3, all relevant health care providers affected by a decision, and to any other parties requesting a written summary and approved by the Executive Administrator and Board of Trustees to receive a summary immediately following the issuance of a decision. A decision by the Executive Administrator and Board of Trustees that a matter raised on internal appeal is a determination subject to external review as provided in subsection (b) of this section may be contested by the aggrieved person under Chapter 150B of the General Statutes. The person contesting the decision may proceed with external review pending a decision in the contested case under Chapter 150B of the General Statutes.

(b) The Executive Administrator and Board of Trustees shall adopt and implement utilization review and internal grievance procedures that are substantially equivalent to those required under G.S. 58-50-61 and G.S. 58-50-62. External review of determinations shall be conducted in accordance with Part 4 of Article 50 of Chapter 58 of the General Statutes. As used in this section, "determination" is a decision by the Executive Administrator and Board of Trustees, ~~the Plan's designated utilization review organization, or a self-funded health maintenance organization or the Plan's designated utilization review organization~~ administered by or under contract with the Plan that an admission, availability of care, continued stay, or other health care service has been reviewed and, based upon information provided, does not meet the Plan's requirements for medical necessity, appropriateness, health care setting, or level of care or effectiveness, and the requested service is therefore denied, reduced, or terminated.

(c) The Board of Trustees shall make the final agency decision in all cases contested pursuant to Chapter 150B of the General Statutes. The Executive Administrator shall execute the Board's final agency decisions. For purposes of G.S. 150B-44, the Board of Trustees is an agency that is a board or commission.

SECTION 2.(o) G.S. 135-39.8 is recodified as G.S. 135-38.11 under Part 2A of Article 3A of Chapter 135 of the General Statutes as enacted by this act, and as recodified, reads as rewritten:

"§ 135-38.11. ~~Rules and regulations.~~Rules.

The Executive Administrator and Board of Trustees may ~~issue~~ adopt ~~rules and regulations~~ to implement Parts ~~2, 3, 4, and 5~~ 2A, 3A, 4A, and 5A of this Article. The Executive Administrator and Board of Trustees shall provide to all employing units, all health benefit representatives, the oversight team provided for in ~~G.S. 135-39.3~~, G.S. 135-37.3, all relevant health care providers affected by a ~~rule or regulation~~, rule, and to any other persons requesting a written description and approved by the Executive Administrator and Board of Trustees written notice and an opportunity to comment not later than 30 days prior to adopting, amending, or rescinding a ~~rule or regulation~~, rule, unless immediate adoption of the ~~rule or regulation~~ without notice is necessary in order to fully effectuate the purpose of the ~~rule or regulation~~. rule. Rules ~~and regulations~~ of the Board of Trustees shall remain in effect until amended or repealed by the Executive Administrator and Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written description of the ~~rules and regulations issued~~ adopted under this section to all employing units, all health benefit representatives, the oversight team provided for in ~~G.S. 135-39.3~~, G.S. 135-37.3, all

relevant health care providers affected by a ~~rule or regulation~~, rule, and to any other persons requesting a written description and approved by the Executive Administrator and Board of Trustees on a timely basis. Rules adopted by the Executive Administrator and Board of Trustees to implement this Article are not subject to Article 2A of Chapter 150B of the General Statutes."

SECTION 2.1. Effective when this act becomes law, Part 2A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, is amended by adding a new section to read:

"§ 135.38.5A. State Health Plan Administrative Commission. – Creation; membership; appointments, terms, and vacancies; officers; meetings and quorum; compensation.

(a) The State Health Plan Administrative Commission (hereinafter "Commission") is created. It is composed of three members appointed by the General Assembly as follows:

- (1) In 2008 and quadrennially thereafter, two members appointed for two-year terms by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and in 2010 and quadrennially thereafter, one member appointed for a two-year term by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (2) In 2008 and quadrennially thereafter, one member appointed for a two-year term by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and in 2010 and quadrennially thereafter, two members appointed for two-year terms by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(b) Terms of office shall commence July 1 and end June 30, except that the terms of the initial members shall commence upon appointment and expire June 30, 2010.

(c) The Commissioner of Insurance or his designee serves as secretary of the Commission.

(d) Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(e) The Governor may remove any member of the Commission from office after a hearing for nonfeasance, misfeasance, or malfeasance. The General Assembly may remove any member of the Commission.

(f) The Commission shall elect from its membership a chair and a vice-chair to serve terms coterminous with the terms of the members.

(g) The Commission meets at the call of the chair or upon written request of at least two members.

(h) The Commission shall be located administratively within the Department of Insurance but shall exercise all of its prescribed statutory powers independently of the Commissioner of Insurance.

(i) A majority of the Commission shall constitute a quorum for the transaction of business.

(j) Members of the Commission shall receive travel allowances under G.S. 138-6 when traveling to and from meetings of the Commission, but shall not receive any subsistence allowance or per diem under G.S. 138-5."

SECTION 2.2. Effective the later of 10 days after this act becoming law or the appointment of at least two members of the State Health Plan Administrative Commission as established by Section 3.1 of this act, G.S. 135-38.5(b), as recodified and rewritten by Section 2(h) of this act, reads as rewritten:

"(b) The Executive Administrator shall be appointed by the ~~Commissioner of Insurance~~ State Health Plan Administrative Commission. The term of employment and salary of the Executive Administrator shall be set by the ~~Commissioner of Insurance~~ State Health Plan Administrative Commission 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~~ State Health Plan Administrative Commission, 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~~ State Health Plan Administrative Commission with the term of employment and salary set upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits."

SECTION 3.(a) Effective July 1, 2008, Part 3 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, is recodified as Part 3A of Article 3A of Chapter 135 of the General Statutes.

SECTION 3.(b) Effective July 1, 2008, G.S. 135-40 is repealed.

SECTION 3.(c) Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, is amended by adding the following new section to read: "**§ 135-39.12. Undertaking.**

(a) The State of North Carolina undertakes to make available a State Health Plan (hereinafter called the "Plan") exclusively for the benefit of eligible employees, eligible retired employees, and certain of their eligible dependents, which will pay benefits in accordance with the terms of this Article. The Plan shall have all the powers and privileges of a corporation and shall be known as the State Health Plan for Teachers and State Employees. The Executive Administrator and Board of Trustees shall carry out their duties and responsibilities as fiduciaries for the Plan. The Plan shall administer one or more group health plans that are comprehensive in coverage and shall provide eligible employees and retired employees coverage on a noncontributory basis under at least one of the group plans with benefits equal to that specified in subsection (g) of this section. The Executive Administrator and Board of Trustees may operate group plans as a preferred provider option, or health maintenance, point-of-service, or other organizational arrangement and may offer the plans to employees and retirees on a noncontributory or partially contributory basis. Plans offered on a partially contributory basis must provide benefits that are additional to that specified in subsection (g) of this section and may not be offered unless approved in an act of the General Assembly.

(b) Individuals eligible for coverage under G.S. 135-39.14 on a fully or partially contributory basis are eligible to participate in any plan authorized under this section.

(c) The State of North Carolina deems it to be in the public interest for North Carolina firefighters, rescue squad workers, and members of the national guard, and certain of their dependents, who are not eligible for any other type of comprehensive group health insurance or other comprehensive group health benefits, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six consecutive months, to be given the opportunity to participate in the benefits provided by the State Health Plan for Teachers and State Employees. Coverage under the Plan shall be voluntary for eligible firefighters, rescue

squad workers, and members of the national guard who elect participation in the Plan for themselves and their eligible dependents.

(d) The Plan benefits shall be provided under contracts between the Plan and the claims processors selected by the Plan. The Executive Administrator may contract with a pharmacy benefits manager to administer pharmacy benefits under the Plan. Such contracts shall include the applicable provisions of G.S. 135-39.13 through G.S. 135-39.27 and the description of the Plan in the request for proposal, and shall be administered by the respective claims processor or Pharmacy Benefits Manager, which will determine benefits and other questions arising thereunder. The contracts necessarily will conform to applicable State law. If any of the provisions of G.S. 135-39.13 through G.S. 135-39.27 and the request for proposals must be modified for inclusion in the contract because of State law, such modification shall be made.

(e) Payroll deduction shall be available for coverage under this Part for subscribers able to meet the Plan's requirements for payroll deduction.

(f) Notwithstanding any other provisions of the Plan, the Executive Administrator and Board of Trustees are specifically authorized to use all appropriate means to secure tax qualification of the Plan under any applicable provisions of the Internal Revenue Code of 1954 as amended. The Executive Administrator and Board of Trustees shall furthermore comply with all applicable provisions of the Internal Revenue Code as amended, to the extent that this compliance is not prohibited by this Article.

(g) The Executive Administrator and Board of Trustees shall not change the Plan's comprehensive health benefit coverage, co-payments, deductibles, out-of-pocket expenditures, and lifetime maximums in effect on July 1, 2008, that would result in a net increased cost to the Plan or in a reduction in benefits to Plan members unless and until the proposed changes are directed to be made in an act of the General Assembly."

SECTION 3.(d) G.S. 135-40.1 is repealed.

SECTION 3.(e) Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, is amended by adding the following new section to read: "**§ 135-39.13. General Definitions.**

As used in this Article unless the context clearly requires otherwise, the following definitions apply:

- (1) Allowed amount. – The charge that the Plan or its claims processors determines is reasonable for covered services provided to a Plan member. This amount may be established in accordance with an agreement between the provider and the Plan or its claims processor. In the case of providers that have not entered into an agreement with the Plan or its claims processor, the allowed amount will be the lesser of the provider's actual charge or a reasonable charge established by the Plan or its claims processor using a methodology that is applied to comparable providers for similar services under a similar health benefit plan.
- (2) Benefit period. – The period of time during which charges for covered services provided to a Plan member must be incurred in order to be eligible for payment by the Plan.
- (3) Chemical dependency. – The pathological use or abuse of alcohol or other drugs in a manner or to a degree that produces an impairment in personal, social, or occupational functioning and which may, but need not, include a pattern of tolerance and withdrawal.

- (4) Claims Processor. – One or more administrators, third-party administrators, or other parties contracting with the Plan to administer Plan benefits.
- (5) Clinical trials. – Patient research studies designed to evaluate new treatments, including prescription drugs. Coverage for clinical trials shall be as provided in G.S. 135-39.20.
- (6) Comprehensive health benefit plan. – Health care coverage that consists of inpatient and outpatient hospital and medical benefits, as well as other outpatient medical services, prescription drugs, medical supplies, and equipment that are generally available in the health insurance market.
- (7) Covered service; benefit; allowable expense. – Any medically necessary, reasonable, and customary items of service, including prescription drugs, and medical supplies included in the Plan.
- (8) Deductible. – The dollar amount that must be incurred for certain covered services in a benefit period before benefits are payable by the Plan.

The deductible applies separately to each covered individual in each fiscal year, subject to an aggregate maximum per employee and child, employee and spouse, or employee and family coverage contract in any fiscal year.

If two or more family members are injured in the same accident, only one deductible is required for charges related to that accident during the benefit period.

- (9) Dependent. – An eligible Plan member other than the subscriber.
- (10) Dependent child. – A natural, legally adopted, or foster child or children 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. Dependent children of firefighters, 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. Eligibility of dependent children is subject to the requirements of G.S. 135-39.14(d).
- (11) Employee or State employee. – Any permanent full-time or permanent part-time regular employee (designated as half-time or more) of an employing unit.
- (12) 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. 135-39.17. 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.
- (13) Experimental/Investigational. – Experimental/Investigational Medical Procedures. – The use of a service, supply, drug, or device not recognized as standard medical care for the condition, disease, illness, or injury being treated as determined by the Executive Administrator and Board of Trustees upon the advice of the Claims Processor.
- (14) Firefighter. – Eligible firefighters as defined by G.S. 58-86-25 who belong to a bona fide fire department as defined by G.S. 58-86-25 and who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Firefighter shall also include members of the North Carolina Firemen and Rescue Squad Workers' Pension Fund who are in receipt of a monthly pension, who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Comprehensive group health insurance and other benefit coverage consists of inpatient and outpatient hospital and medical benefits, as well as other outpatient medical services, prescription drugs, medical supplies, and equipment that are generally available in the health insurance market. For purposes of this subdivision, comprehensive group health insurance and other benefit coverage includes Medicare benefits, CHAMPUS benefits, and other Uniformed Services benefits. North Carolina fire departments or their respective governing bodies shall certify the eligibility of their firefighters to the Plan for their participation in its benefits prior to enrollment.
- (15) Health Benefits Representative. – The employee designated by the employing unit to administer the Plan for the unit and its employees. The HBR is responsible for enrolling new employees, reporting changes, explaining benefits, reconciling group statements, and remitting group fees. The State Retirement System is the Health Benefits Representative for retired State employees.
- (16) Medical necessity or medically necessary. – Covered services or supplies that are:
- a. Provided for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease; and, except for clinical trials covered under the Plan, not for experimental, investigational, or cosmetic purposes.
 - b. Necessary for and appropriate to the diagnosis, treatment, cure, or relief of a health condition, illness, injury, disease, or its symptoms.
 - c. Within generally accepted standards of medical care in the community.

d. Not solely for the convenience of the Plan member, the Plan member's family, or the provider.

For medically necessary services, the Plan or its representative may compare the cost-effectiveness of alternative services or supplies when determining which of the services or supplies will be covered and in what setting medically necessary services are eligible for coverage.

- (17) National guard members. – Members of the North Carolina army and air national guard who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Members of the North Carolina army and air national guard include those who are actively serving in the national guard as well as former members of the national guard who have completed 20 or more years of service in the national guard but have not attained the minimum age to begin receipt of a uniformed service military retirement benefit. Comprehensive group health insurance and other benefit coverage consists of inpatient and outpatient hospital and medical benefits, as well as other outpatient medical services, prescription drugs, medical supplies, and equipment that are generally available in the health insurance market. Comprehensive group health insurance and other benefit coverage includes Medicare benefits, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, and other Uniformed Services benefits. North Carolina national guard units shall certify the eligibility of their members to the Plan for their participation in its benefits prior to enrollment.
- (18) Optional alternative comprehensive benefit plans. – Comprehensive benefit plans administered by the Plan that differ in coverage, deductibles, coinsurance from the Standard Plan providing for 80/20 coinsurance, and that are alternative choices for coverage at the option of the Plan member.
- (19) Plan or State Health Plan. – The North Carolina State Health Plan for Teachers and State Employees. Unless otherwise expressly provided, "Plan" includes all comprehensive health benefit plans offered under the Plan.
- (20) Plan member. – A subscriber or dependent who is eligible and currently enrolled in the Plan and for whom a premium is paid.
- (21) Plan year. – The period beginning July 1 and ending on June 30 of the succeeding calendar year.
- (22) Predecessor plan. – The Hospital and Medical Benefits for the Teachers' and State Employees' Retirement System of the State of North Carolina and the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.
- (23) Rescue squad workers. – Eligible rescue squad workers as defined by the provisions of G.S. 58-86-30 who belong to a rescue or emergency medical services squad as defined by the same statute and who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage and who have been

without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Rescue squad workers shall also include members of the North Carolina Firemen and Rescue Squad Workers' Pension Fund who are in receipt of a monthly pension, who are not eligible for any type of comprehensive group health insurance or other comprehensive group health benefit coverage, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months. Comprehensive group health insurance and other benefit coverage consists of inpatient and outpatient hospital and medical benefits, as well as other outpatient medical services, prescription drugs, medical supplies, and equipment that are generally available in the health insurance market. For purposes of this subdivision, comprehensive group health insurance and other benefit coverage includes Medicare benefits, CHAMPUS benefits, and other Uniformed Services benefits. North Carolina rescue or emergency medical services squads or their respective governing bodies shall certify the eligibility of their rescue squad workers to the Plan for their participation in its benefits prior to enrollment.

- (24) 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.
- (25) Subscriber. – A Plan member who is not a dependent.
- (26) Surviving spouse. – The spouse of a deceased Plan member who is eligible for Plan enrollment."

SECTION 3.(f) G.S. 135-40.2, as amended by Section 28.22A of S.L. 2007-323, is recodified as G.S. 135-39.14 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-39.14. Eligibility.

(a) Noncontributory Coverage. – The following persons are eligible for coverage under the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-40.3G.S. 135-39.16:

- (1) All permanent full-time employees of an employing unit who meet the following conditions:
- a. Paid from general or special State funds, or
 - b. Paid from non-State funds and in a group for which his or her employing unit has agreed to provide coverage.
- Employees of State agencies, departments, institutions, boards, and commissions not otherwise covered by the Plan who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision.
- ~~(1a)~~(2) Permanent hourly employees as defined in G.S. 126-5(c4) who work at least one-half of the workdays of each pay period.
- ~~(2)~~(3) Retired teachers, State employees, members of the General Assembly, and retired State law enforcement officers who retired under the Law Enforcement Officers' Retirement System prior to January 1, 1985.

Except as otherwise provided in this subdivision, 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. For employees first hired on and after October 1, 2006, and members of the General Assembly first taking office on and after February 1, 2007, future coverage as retired employees and retired members of the General Assembly is subject to a requirement that the future retiree have 20 or more years of retirement service credit in order to be covered by the provisions of this subdivision.

~~(2a)~~(4) Surviving spouses of:

- a. Deceased retired employees, provided the death of the former plan member occurred prior to October 1, 1986; and
- b. Deceased teachers, State employees, and members of the General Assembly who are receiving a survivor's alternate benefit under any of the State-supported retirement programs, provided the death of the former plan member occurred prior to October 1, 1986.

~~(3a)~~(5) Employees of the General Assembly, not otherwise covered by this section, as determined by the Legislative Services Commission, except for legislative interns and pages.

~~(4)~~(6) Members of the General Assembly.

~~(5)~~(7) Notwithstanding the provisions of subsection (e) of this section, employees on official leave of absence while completing a full-time program in school administration in an approved program as a Principal Fellow in accordance with Article 5C of Chapter 116 of the General Statutes.

~~(6)~~(8) Notwithstanding the provisions of ~~G.S. 135-40.11~~, G.S. 135-39.24 employees formerly covered by the provisions of this section, other than retired employees, who have been employed for 12 or more months by an employing unit and whose jobs are eliminated because of a reduction, in total or in part, in the funds used to support the job or its responsibilities, provided the employees were covered by the Plan at the time of separation from service resulting from a job elimination. Employees covered by this subsection shall be covered for a period of up to 12 months following a separation from service because of a job elimination.

~~(7)~~(9) Any member enrolled pursuant to subdivision (1) or ~~(1a)~~(2) of this subsection who is on approved leave of absence with pay or receiving workers' compensation.

~~(8)~~(10) Employees on approved Family and Medical Leave.

~~(a2)~~(b) Partially Contributory. – The following persons are eligible for coverage under the Plan on a partially contributory basis subject to the provisions of G.S. 135-39.16:

- (1) A school employee in a job-sharing position as defined in ~~G.S. 130-40.3~~, G.S. 135-39.16. 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) ~~(a3)~~ Subject to the provisions of ~~G.S. 135-40.3, G.S. 135-39.16,~~ employees and members of the General Assembly with 10 but less than 20 years of retirement service credit shall be eligible for coverage under the Plan on a partially contributory basis, provided the employees were first hired on or after October 1, 2006, and the members first took office on or after February 1, 2007. For such future retirees, the State shall pay fifty percent (50%) of the Plan's total noncontributory premiums. Individual retirees shall pay the balance of the total noncontributory premiums not paid by the State.

~~(a4) The Executive Administrator and Board of Trustees may in addition to noncontributory coverage offer optional coverage on a partially contributory basis and may set premium rates for the optional coverage on a partially contributory basis. The amount of State funds contributed for optional coverage on a partially contributory basis shall not be more than the Plan's total noncontributory premium for Employee Only coverage, with the person selecting the coverage paying the balance of the partially contributory premium not paid by the Plan. The amount of State funds contributed shall not exceed the Plan's cost for Employee Only coverage. The Executive Administrator and Board of Trustees shall not impose a partially contributory premium until after it has consulted on the premium and the optional coverage design with the Committee on Employee Hospital and Medical Benefits.~~

~~(b)(c) Fully Contributory. –~~ The following person shall be eligible for coverage under the Plan, on a fully contributory basis, subject to the provisions of ~~G.S. 135-40.3:G.S. 135-39.16:~~

- ~~(2)(1)~~ Former members of the General Assembly who enroll before October 1, 1986.
- ~~(2a)(2)~~ For enrollments after September 30, 1986, former members of the General Assembly if covered under the Plan at termination of membership in the General Assembly. To be eligible for coverage as a former member of the General Assembly, application must be made within 30 days of the end of the term of office. Only members of the General Assembly covered by the Plan at the end of the term of office are eligible. If application is not made within the specified time period, the member forfeits eligibility.
- (3) Surviving spouses of deceased former members of the General Assembly who enroll before October 1, 1986.
- ~~(3a)(4)~~ Employees of the General Assembly, not otherwise covered by this section, as determined by the Legislative Services Commission, except for legislative interns and pages.
- ~~(3b)(5)~~ For enrollments after September 30, 1986, surviving spouses of deceased former members of the General Assembly, if covered under the Plan at the time of death of the former member of the General Assembly.
- ~~(4)(6)~~ All permanent part-time employees (designated as half-time or more) of an employing unit who meets the conditions outlined in subdivision (a)(1)a above, and who are not covered by the provisions of ~~G.S. 135-40.2(a)(1)-G.S. 135-39.14(a)(1).~~

- ~~(5)~~(7) The spouses and eligible dependent children of enrolled teachers, State employees, retirees, former members of the General Assembly, former employees covered by the provisions of ~~G.S. 135-40.2(a)(6)~~, G.S. 135-39.14(a)(8), Disability Income Plan beneficiaries, enrolled continuation members, and members of the General Assembly. Spouses of surviving dependents are not eligible, nor are dependent children if they were not covered at the time of the member's death. Surviving spouses may cover their dependent children provided the children were enrolled at the time of the member's death or enroll within ~~30~~90 days of the member's death.
- ~~(6)~~(8) Blind persons licensed by the State to operate vending facilities under contract with the Department of Health and Human Services, Division of Services for the Blind and its successors, who are:
- a. Operating such a vending facility;
 - b. Former operators of such a vending facility whose service as an operator would have made these operators eligible for an early or service retirement allowance under Article 1 of this Chapter had they been members of the Retirement System; and
 - c. Former operators of such a vending facility who attain five or more years of service as operators and who become eligible for and receive a disability benefit under the Social Security Act upon cessation of service as an operator.
- Spouses, dependent children, surviving spouses, and surviving dependent children of such members are not eligible for coverage.
- ~~(8)~~(9) Surviving spouses of deceased retirees and surviving spouses of deceased teachers, State employees, and members of the General Assembly provided the death of the former Plan member occurred after September 30, 1986, and the surviving spouse was covered under the Plan at the time of death.
- (10) Any eligible dependent child of the deceased retiree, teacher, State employee, member of the General Assembly, former member of the General Assembly, or Disability Income Plan beneficiary, provided the child was covered at the time of death of the retiree, teacher, State employee, member of the General Assembly, former member of the General Assembly, or Disability Income Plan beneficiary, (or was in posse at the time and is covered at birth under this Part), or was covered under the Plan on September 30, 1986. An eligible surviving dependent child can remain covered until age 19, or age 26 if a full-time student, or indefinitely if certified as incapacitated under ~~G.S. 135-40.1(3)b~~. G.S. 135-39.13(5)b.
- ~~(11a)~~(11) Retired teachers, State employees, and members of the General Assembly with less than 10 years of retirement service credit, provided the teachers and State employees were first hired on or after October 1, 2006, and the members first took office on or after February 1, 2007.
- (12) Notwithstanding the provisions of ~~G.S. 135-40.11~~, G.S. 135-39.23 former employees covered by the provisions of ~~G.S. 135-40.2(a)(6)~~, G.S. 135-39.14 and their spouses and eligible dependent children who were covered by the Plan at the time of the former employees' separation from service pursuant to

~~G.S. 135-40.2(a)(6)~~, G.S. 135-39.14, following expiration of the former employees' coverage provided by ~~G.S. 135-40.2(a)(6)~~. G.S. 135-39.14. Election of coverage under this subdivision shall be made within 90 days after the termination of coverage provided under ~~G.S. 135-40.2(a)(6)~~. G.S. 135-39.14.

- (13) ~~Firemen~~, Firefighters, rescue squad workers, and members of the national guard, their eligible spouses, and eligible dependent children.

(d) A foster child is covered as a dependent child (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, are not eligible participants.

Coverage of a dependent child may be extended beyond the 19th birthday under the following conditions:

- (1) If the dependent is a full-time student, aged 19 years and one month through the end of the month following the student's 26th birthday, 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.
- (2) 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. 135-39.14(5)a.

~~(e)~~(e) No person shall be eligible for coverage as a dependent if eligible as an employee or retired employee, except when a spouse is eligible on a fully contributory basis. In addition, no person shall be eligible for coverage as a dependent of more than one employee or retired employee at the same time.

~~(d)~~(f) Former employees who are receiving disability retirement benefits or disability income benefits pursuant to Article 6 of Chapter 135 of the General Statutes, provided the former employee has at least five years of retirement membership service, shall be eligible for the benefit provisions of this Plan, as set forth in this Part, on a noncontributory basis. Such coverage shall terminate as of the end of the month in which such former employee is no longer eligible for disability retirement benefits or disability income benefits pursuant to Article 6 of this Chapter.

~~(e)~~(g) Employees on official leave of absence without pay may elect to continue this group coverage at group cost provided that they pay the full employee and employer contribution through the employing unit during the leave period.

~~(f)~~(h) For the support of the benefits made available to any member vested at the time of retirement, their spouses or surviving spouses, and the surviving spouses of employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those

associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1, the North Carolina State Art Society, Inc., and the North Carolina Symphony Society, Inc., each association, organization or board shall pay to the Plan the full cost of providing these benefits under this section as determined by the Board of Trustees of the State Health Plan for Teachers and State Employees. In addition, each association, organization or board shall pay to the Plan an amount equal to the cost of the benefits provided under this section to presently retired members of each association, organization or board since such benefits became available at no cost to the retired member. This subsection applies only to those individuals employed prior to July 1, 1983, as provided in G.S. 135-27(d).

~~(g)~~(i) An eligible surviving spouse and any eligible surviving dependent child of a deceased retiree, teacher, State employee, member of the General Assembly, former member of the General Assembly, or Disability Income Plan beneficiary shall be eligible for group benefits under this section without waiting periods for preexisting conditions provided coverage is elected within 90 days after the death of the former plan member. Coverage may be elected at a later time, but will be subject to the 12-month waiting period for preexisting conditions and will be effective the first day of the month following receipt of the application.

~~(h)~~(j) No person shall be eligible for coverage as an employee or retired employee or as a dependent of an employee or retired employee upon a finding by the Executive Administrator or Board of Trustees or by a court of competent jurisdiction that the employee or dependent knowingly and willfully made or caused to be made a false statement or false representation of a material fact in a claim for reimbursement of medical services under the Plan. The Executive Administrator and Board of Trustees may make an exception to the provisions of this subsection when persons subject to this subsection have had a cessation of coverage for a period of five years and have made a full and complete restitution to the Plan for all fraudulent claim amounts. Nothing in this subsection shall be construed to obligate the Executive Administrator and Board of Trustees to make an exception as allowed for under this subsection.

~~(i)~~(k) Any employee receiving benefits pursuant to Article 6 of this Chapter when the employee has less than five years of retirement membership service, or an employee on leave without pay due to illness or injury for up to 12 months, is entitled to continued coverage under the Plan for the employee and any eligible dependents by paying one hundred percent (100%) of the cost."

SECTION 3.(g) Part 3A of Article 3A of Chapter 135 of the General Statutes is amended by adding the following new section to read:

"§ 135-39.15. Enrollment.

(a) Except as otherwise required by applicable federal law, new employees must be given the opportunity to enroll or decline enrollment for 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 or alternative plans available under the Plan. 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.

(b) 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 parents' home, or the first of the month following the date of adoption or placement. Firefighters, 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."

SECTION 3.(h) G.S. 135-40.3, as amended by Section 28.22A of S.L. 2007-323, is recodified as G.S. 135-39.16 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-39.16. Effective dates of coverage.

- (a) Employees and Retired Employees. –
 - (1) Employees and retired employees covered under the Predecessor Plan will continue to be covered, subject to the terms hereof.
 - (2) New employees may apply for coverage to be effective on the first day of the month following employment, or on a like date the following month if the employee has enrolled.
 - (3) Employees not enrolling or adding dependents when first eligible in accordance with ~~G.S. 135-40.1(7)~~G.S. 135-39.15 may enroll later on the first of any following month but will be subject to a 12-month waiting period for a preexisting health condition, except employees who elect to change their coverage in accordance with rules adopted by the Executive Administrator and Board of Trustees for optional ~~prepaid hospital and medical benefit plans~~alternative plans offered under the Plan.
 - (4) Members of the General Assembly, beginning with the 1985 Session, shall become first eligible with the convening of each Session of the General Assembly, regardless of a Member's service during previous Sessions. Members and their dependents enrolled when first eligible after the convening of each Session of the General Assembly will not be subject to any waiting periods for preexisting health conditions. Members of the 1983 Session of the General Assembly, not already enrolled, shall be eligible to enroll themselves and their dependents on or before October 1, 1983, without being subject to any waiting periods for preexisting health conditions.
- (b) Waiting Periods and Preexisting Conditions. –

- (1) New employees and dependents enrolling when first eligible are subject to no waiting period for preexisting conditions under the Plan.
- (2) Employees not enrolling or not adding dependents when first eligible may enroll later on the first of any following month, but will be subject to a twelve-month waiting period for preexisting conditions except as provided in subdivision (a)(3) of this section.
- (3) Retiring employees and dependents enrolled when first eligible after an employee's retirement are subject to no waiting period for preexisting conditions under the Plan. Retiring employees not enrolled or not adding dependents when first eligible after an employee's retirement may enroll later on the first of any following month, but will be subject to a 12-month waiting period for preexisting conditions except as provided in subdivision (a)(3) of this section.
- (4) Employees and dependents enrolling or reenrolling within 12 months after a termination of enrollment or employment that were not enrolled at the time of this previous termination, regardless of the employing units involved, shall not be considered as newly-eligible employees or dependents for the purposes of waiting periods and preexisting conditions. Employees and dependents transferring from optional ~~plans in accordance with G.S. 135-39.5B;~~ alternative plans available under the Plan; employees and dependents immediately returning to service from an employing unit's approved periods of leave without pay for illness, injury, educational improvement, workers' compensation, parental duties, or for military reasons; employees and dependents immediately returning to service from a reduction in an employing unit's work force; retiring employees and dependents reenrolled in accordance with ~~G.S. 135-40.3(b)(3);~~ G.S.135-39.16(b)(3); formerly-enrolled dependents reenrolling as eligible employees; formerly-enrolled employees reenrolling as eligible dependents; and employees and dependents reenrolled without waiting periods and preexisting conditions under specific rules ~~and regulations~~ adopted by the Executive Administrator and Board of Trustees in the best interests of the Plan shall not be considered reenrollments for the purpose of this subdivision. Furthermore, employees accepting permanent, full-time appointments who had previously worked in a part-time or temporary position and their qualified dependents shall not be covered by waiting periods and preexisting conditions under this division provided enrollment as a permanent, full-time employee is made when the employee and his dependents are first eligible to enroll.
- (5) To administer the 12-month waiting period for preexisting conditions under this Article, the Plan must give credit against the 12-month period for the time that a person was covered under a previous plan if the previous plan's coverage was continuous to a date not more than 63 days before the effective date of coverage. As used in this subdivision, a "previous plan" means any policy, certificate, contract, or any other arrangement provided by any accident and health insurer, any hospital or medical service corporation, any health maintenance organization, any preferred provider organization, any multiple employer welfare

arrangement, any self-insured health benefit arrangement, any governmental health benefit or health care plan or program, or any other health benefit arrangement.

- (c) Dependents of Employees and Retired Employees. –
- (1) Dependents of employees and retired employees who have family coverage under the Predecessor Plan will continue to be covered subject to the terms hereof.
 - (2) Employees who have dependents may apply for family coverage at the time they enroll as provided in subdivisions (a)(2) and (a)(3) of this section and such dependents will be covered under the Plan beginning the same date as such employees.
 - (3) Employees and retired employees may change from ~~individual or parent/child(ren) coverage to parent/child(ren) or family coverage or add dependents to existing family or parent/child(ren) coverage upon acquiring a dependent~~ one category of coverage to a different category of coverage without a waiting period for preexisting conditions, ~~and~~ and, as applicable, dependents will be covered under the Plan the first of the month or the first of the second month following the dependent's eligibility for coverage, provided written application is submitted to the Health Benefits Representative within 30 days of becoming eligible.
 - (4) Employees or retired employees who wish to change ~~from family coverage to parent/child(ren) or individual or from parent/child(ren) to individual coverage to employee only coverage~~ shall give written notice to their Health Benefits Representative within 30 days after any change in the status of dependents, (resulting from death, divorce, etc.) that requires a change in contract ~~type-category~~. The effective date will be the first of the month following the dependent's ineligibility event. If notification was not made within the 30 days following the dependent's ineligibility event, the dependent will be retroactively removed the first of the month following the dependent's ineligibility event, and the coverage ~~type-category~~ change will be the first of the month following written notification, except in cases of death, in which case the coverage ~~type-category~~ change will be made retroactive to the first of the month following the death.
 - (5) Employees not adding dependents when first eligible may enroll later on the first of any following month, but dependents will be subject to a 12-month waiting period for preexisting health conditions except as provided in subdivision (a)(3) of this section.
 - (6) Employees or retired employees who wish to change to employee only coverage from family to parent/child(ren) or individual coverage or from parent/child(ren) to individual coverage, even though their dependents continue to be eligible, shall give written notification to their Health Benefits Representative. ~~Effective~~ Except as otherwise required by applicable federal law, the date of this ~~type-category~~ change will be the first of the month following written notification or any first of the month thereafter as desired by the employee.
 - (7) The effective date for newborns or adopted children will be date of birth, date of adoption, or placement with adoptive parent provided

member is currently covered under ~~a family or parent/child(ren) coverage, employee and family or employee and child coverage.~~ If the member wishes to add a newborn or adopted child and is currently enrolled ~~on individual in employee only coverage,~~ the member must submit application for coverage and a coverage type change within 30 days of the child's birth or date of adoption or placement. Effective date for the coverage ~~type-category~~ change is the first of the month in which the child is born, adopted, or placed. Adopted children may also be covered the first of the month following placement or adoption.

(d) ~~Types~~ Categories of Coverage Available. – There are ~~three-four types~~ categories of coverage which an employee or retiree may elect.

- (1) Employee Only. – Covers enrolled employees only. Maternity benefits are provided to employee only.
- (2) Employee and ~~Child(ren).~~ Child. – Covers enrolled employee and all eligible dependent children. Maternity benefits are provided to the employee only.
- (3) Employee and Family. – Covers employee and spouse, and all eligible dependent children. Maternity benefits are provided to employee or enrolled spouse.
- (4) Employee and spouse. Covers employee and spouse only. Maternity benefits are provided to the employee or the employee's enrolled spouse.

(e) Notwithstanding any other provision of this section, no coverage under the Plan shall become effective prior to the payment of premiums required by the Plan.

(f) ~~Firemen,~~ Firefighters, rescue squad workers, and members of the national guard are subject to the same terms and conditions of this section as are employees. Eligible dependents of ~~firemen,~~ firefighters, rescue squad workers, and members of the national guard are subject to the same terms and conditions of this section as are dependents of employees.

(g) Different categories of coverage may be offered for optional alternative plans or programs.

(h) If any provision of this section is in conflict with applicable federal law, federal law shall control to the extent of the conflict."

SECTION 3.(i) G.S. 135-40.3A is recodified as G.S. 135-39.17 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 3.(j) G.S. 135-40.5, as amended by Section 28.22 of S.L. 2007-323, and as further amended by Section 22.28A of S.L. 2007-323, is recodified as G.S. 135-39.18 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ **135-39.18. Benefits not subject to deductible or coinsurance.**

(~~e~~) ~~Preadmission Testing.~~ — ~~The Plan will pay one hundred percent (100%) of reasonable and customary charges for diagnostic, laboratory and x ray examinations performed on an outpatient basis.~~

(~~f~~)(a) Immunizations. – The Plan will pay one hundred percent (100%) of allowable medical charges for immunizations for the prevention of contagious diseases as generally accepted medical practices would dictate when directed by ~~an attending physician.~~ a credentialed provider as determined by the claims processor.

(~~g~~)(b) Prescription Drugs. – The Plan's allowable charges for prescription legend drugs to be used outside of a hospital or skilled nursing facility ~~are to be~~ shall be as

determined by the Plan's Executive Administrator and Board of ~~Trustees~~Trustees, which determinations are not subject to appeal under Article 3 of Chapter 150B of the General Statutes.

The Plan will pay allowable charges for each outpatient prescription drug less a copayment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars (\$10.00) for each generic prescription, thirty dollars (\$30.00) for each preferred branded prescription, and forty dollars (\$40.00) for each preferred branded prescription with a generic equivalent drug, and fifty dollars (\$50.00) for each nonpreferred branded or generic prescription. These co-payments apply to ~~the Plan's optional programs~~all optional alternative plans available under the Plan.

Allowable charges shall not be greater than a pharmacy's usual and customary charge to the general public for a particular prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of the copayments paid by each covered individual. By accepting the copayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required. The Plan may use a pharmacy benefit manager to help manage the Plan's outpatient prescription drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for ~~erectile~~sexual dysfunction, growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically necessary to the health of the member. The Plan and its pharmacy benefit manager shall not provide coverage for growth hormone and weight loss drugs and antifungal drugs for the treatment of nail fungus and botulinum toxin without approval in advance by the pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator and pharmacy benefit manager shall be an open formulary. Plan members shall not be assessed more than two thousand five hundred dollars (\$2,500) per person per fiscal year in copayments required by this subsection.

SECTION 3.(k) G.S. 135-40.6A is repealed.

SECTION 3.(l) Part 3A of Article 3A of Chapter 135 of the General Statutes is amended by adding the following new section to read:

"§ 135-39.19. Prior approval procedures.

The Executive Administrator and Board of Trustees may establish procedures to require prior medical approval and may implement the procedures after consultation with the Committee on Employee Hospital and Medical Benefits."

SECTION 3.(m) Effective July 1, 2008, G.S. 135-40.7, as amended by Section 28.22A(j) of S.L. 2007-323, is recodified as G.S. 135-39.20 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and, as recodified, reads as rewritten:

"§ 135-39.20. General limitations and exclusions.

The following shall in no event be considered covered expenses nor will benefits described in ~~G.S. 135-40.5 through G.S. 135-40.11~~G.S. 135-39.18 through G.S. 135-39.23 be payable for:

- (1) Charges for any services rendered to a person prior to the date coverage under this Plan becomes effective with respect to such person.

- (2) Charges for care in a nursing home, adult care home, convalescent home, or in any other facility or location for custodial or for rest cures.
- (3) Charges to the extent paid, or which the individual is entitled to have paid, or to obtain without cost, in accordance with any government laws or regulations except Medicare. If a charge is made to any such person which he or she is legally required to pay, any benefits under this Plan will be computed in accordance with its provisions, taking into account only such charge. "Any government" includes the federal, State, provincial or local government, or any political subdivision thereof, of the United States, Canada or any other country.
- (4) Charges for services rendered in connection with any occupational injury or disease arising out of and in the course of employment with any employer, if (i) the employer furnishes, pays for or provides reimbursement for such charges, or (ii) the employer makes a settlement payment for such charges, or (iii) the person incurring such charges waives or fails to assert his or her rights respecting such charges.
- (5) Charges for any care, treatment, services or supplies other than those which are certified by a physician who is attending the individual as being required for the medically necessary treatment of the injury or disease and are deemed medically necessary and appropriate for the treatment of the injury or disease by the Executive Administrator and Board of Trustees upon the advice of the Claims Processor. This subdivision shall not be construed, however, to require certification by an attending physician for a service provided by an advanced practice registered nurse acting within the nurse's lawful scope of ~~practice, subject to the limitations of G.S. 135-40.6(10)-practice.~~
- (6) Charges for any services rendered as a result of injury or sickness due to an act of war, declared or undeclared, which act shall have occurred after the effective date of a person's coverage under the Plan.
- (7) Charges for personal services such as barber services, guest meals, radio and TV rentals, etc.
- (8) Charges for any services with respect to which there is no legal obligation to pay. For the purposes of this item, any charge which exceeds the charge that would have been made if a person were not covered under this Plan shall, to the extent of such excess, be treated as a charge for which there is no legal obligation to pay; and any charge made by any person for anything which is normally or customarily furnished by such person without payment from the recipient or user thereof shall also be treated as a charge for which there is no legal obligation to pay.
- (9) Charges during a continuous hospital confinement which commenced prior to the effective date of the person's coverage under this Plan.
- (10) Charges in excess of either ~~the usual, customary and reasonable charge~~ for the allowed amount or the reasonable amount, or the fair and reasonable value of the services or supply which gives rise to the expense; provided that in each instance the extent that a particular charge is usual, customary and reasonable or fair and reasonable shall be measured and determined by comparing the charge with charges

made for similar things to individuals of similar age, sex, income and medical condition in the locality concerned, and the result of such determination shall constitute the maximum allowable as covered medical expenses unless the Claims Processor finds that considerations of fairness and equity in a particular set of circumstances require that greater or lesser charges be considered as covered medical expenses in that set of circumstances.

- (11) Charges for or in connection with any dental work or dental treatment except to the extent that such work or treatment is specifically provided for under the Plan. Excluded is payment for surgical benefits for tooth replacement, such as crowns, bridges or dentures; orthodontic care; filling of teeth; extraction of teeth (whether or not impacted); root canal therapy; removal of root tips from teeth; treatment for tooth decay, inflammation of gingiva, or surgical procedures on diseased gingiva or other periodontal surgery; repositioning soft tissue, reshaping bone, and removal of bony projections from the ridges preparatory to fitting of dentures; removal of cysts incidental to removal of root tips from teeth and extraction of teeth; or other dental procedures involving teeth and their bones or tissue supporting structure.
- (12) Charges incurred for any medical observations or diagnostic study when no disease or injury is revealed, unless proof satisfactory to the Claims Processor is furnished that (i) the claim is in order in all other respects, (ii) the covered individual had a definite symptomatic condition of disease or injury other than hypochondria, and (iii) the medical observation and diagnostic studies concerned were not undertaken as a matter of routine physical examination or health ~~checkup as provided in G.S. 135-40.6(8)s.checkup.~~
- (13) Charges for eyeglasses or other corrective lenses (except for cataract lenses certified as medically necessary for aphakia persons) and hearing aids or examinations for the prescription or fitting thereof.
- (14) Charges for cosmetic surgery or treatment except that charges for cosmetic surgery or treatment required for correction of damage caused by accidental injury sustained by the covered individual while coverage under this plan is in force on his or her account or to correct congenital deformities or anomalies shall not be excluded if they otherwise qualify as covered medical expenses. Reconstructive breast surgery following mastectomy, as those terms are defined in G.S. 58-51-62, is not "cosmetic surgery or treatment" for purposes of this section.
- (15) Admissions for diagnostic tests or procedures which could be, and generally are, performed on an outpatient basis and inpatient services or supplies which are not consistent with the diagnosis, for which admitted.
- (16) Costs denied by the Claims Processor as part of its overall program of claim review and cost containment.
- ~~(16a)~~(17) Charges in excess of negotiated rates allowed for preferred providers of institutional and professional medical care and ~~services in accordance with the provisions of G.S. 135-40.4, services,~~ when such

preferred providers are reasonably available to provide institutional and professional medical care.

- ~~(17)~~(18) If a covered service becomes excluded from coverage under the Plan, the Executive Administrator and Claims Processor may, in the event of exceptional situations creating undue hardships or adverse medical conditions, allow persons enrolled in the Plan to remain covered by the Plan's previous coverage for up to three months after the effective date of the change in coverage, provided the persons so enrolled had been undergoing a continuous plan of specific treatment initiated within three months prior to the effective date of the change in coverage.
- ~~(18)~~(19) Charges for services unless a claim is filed within 18 months from the date of service.
- ~~(19)~~(20) Any service, treatment, facility, equipment, drug, supply, or procedure that is experimental or investigational as defined in ~~G.S. 135-40.1(7a)~~ by the Plan. Clinical trial phases III and IV are covered by the Plan as is clinical trial phase II when approved by the Plan. Regardless of the type of trial phases covered by the Plan, all covered trials must involve the treatment of life-threatening medical conditions, must be clearly superior to available noninvestigational treatment alternatives, and must have clinical and preclinical data that shows the trials will be at least as effective as noninvestigational alternatives. Trials must also involve determinations by treating physicians, relevant scientific data, and opinions of experts in relevant fields of medicine. Covered trials must be approved by the National Institutes of Health, a National Institutes of Health cooperative group or center, the U.S. Food and Drug Administration, the U.S. Department of Defense, or the U.S. Department of Veterans Affairs. The Plan may also cover clinical trials sponsored by other entities. Trials must also be approved by applicable qualified institutional review boards. All covered trials must be conducted in and by facilities and personnel that maintain a high level of expertise because of their training, experience, and volume of patients. To be covered by the Plan, patients participating in clinical trials must meet substantially all protocol requirements of the trials and exercise informed consent in the trials. Only medically necessary costs of health care services involved in treatments provided to patients for the purpose of the trials are covered by the Plan to the extent that such costs are not customarily funded by national agencies, commercial manufacturers, distributors, or other such providers. Clinical trial costs not covered by the Plan include, but are not limited to, the costs of services that are not health care services and costs associated with managing research in the trials. The Plan shall not exclude benefits for covered clinical trials if the proposed treatment is the only appropriate protocol for the condition being treated.
- ~~(20)~~(21) Complications arising from noncovered ~~services known at the time the noncovered services were provided.~~ services.
- ~~(21)~~(22) Charges related to a noncovered service, even if the charges would have been covered if rendered in connection with a covered service.

~~(22)~~(23) Charges for services covered by the long-term care benefit provisions of ~~Part 4~~Part 4A of this Article.

~~(23)~~(24) Charges disallowed by the Plan's pharmacy benefits manager."

SECTION 3.(n) G.S. 135-40.7B, as amended by Section 28.22(f) of S.L. 2007-323, and as further amended by Section 28.22A(o) of S.L. 2007-323, is recodified as G.S. 135-39.21 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ **135-39.21. Special provisions for chemical dependency and mental health benefits.**

(a) Except as otherwise provided in this section, benefits for the treatment of mental illness and chemical dependency are covered by the Plan and shall be subject to the same deductibles, durational limits, and coinsurance factors as are benefits for physical illness generally.

(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 as provided in~~ as provided in 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 that have 24-hour on-site care provided by a registered nurse who is physically located at the facility at all times 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;~~Authorities or County Programs in accordance with G.S. 122C-141;
- 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;~~Authorities or County Programs in accordance with G.S. 122C-141;
- e. Licensed intensive outpatient treatment programs;
- f. Licensed partial hospitalization programs; and
- g. Medical detoxification facilities or units.

(c) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for mental health under this section:

- (1) Psychiatrists who have completed a residency in psychiatry approved by the American Council for Graduate Medical Education and who are licensed as medical doctors or doctors of osteopathy in the state in which they perform and services covered by the Plan;

- (2) Licensed ~~or certified~~ doctors of psychology;
- (3) ~~Certified clinical~~ Clinical social workers licensed or certified by the North Carolina Social Work Certification and Licensure Board under Chapter 90B of the General Statutes and ~~licensed clinical social workers~~;
- (~~3a~~)(4) Licensed professional counselors;
- (4)(~~5~~) Certified clinical specialists in psychiatric and mental health ~~nursing~~; nursing in accordance with Article 9A of Chapter 90 of the General Statutes;
- (4a)(~~6~~) Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
- (~~6~~)(7) Licensed psychological associates;
- (~~9~~)(8) Certified fee-based practicing pastoral ~~counselors~~; counselors in accordance with Article 26 of Chapter 90 of the General Statutes;
- (10)(~~9~~) Licensed physician assistants under the supervision of a licensed psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws and rules of the area in which the physician assistant is licensed or certified; and
- (11)(~~10~~) Licensed marriage and family therapists.
- (11) Physicians licensed under Chapter 90 of the General Statutes and certified professionals with training and experience in the care and treatment for mental health and working under the direct supervision of such physicians.

(~~e1~~)(d) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for chemical dependency under this section:

- (1) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager, in facilities described in subdivision (b)(2) of this section, in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of the General Statutes or in North Carolina area programs in substance abuse services are authorized to provide treatment for chemical dependency under this section:
 - a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
 - b. Licensed ~~or certified~~ psychologists;
 - c. Psychiatrists;
 - d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - e. Licensed psychological associates;
 - f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - g. ~~Certified clinical social workers and licensed clinical social workers~~; Clinical social workers licensed or certified by the North Carolina Social Work Certification and Licensure Board under Chapter 90B of the General Statutes;

- h. Certified clinical specialists in psychiatric and mental health ~~nursing; nursing~~ in accordance with Article 9A of Chapter 90 of the General Statutes;
 - i. Licensed professional counselors;
 - j. Certified fee-based practicing pastoral ~~counselors;~~ counselors in accordance with Article 26 of Chapter 90 of the General Statutes;
 - k. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes; and
 - l. Licensed marriage and family and therapists.
- (2) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager are authorized to provide treatment for chemical dependency in outpatient practice settings:
- a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
 - b. Licensed ~~or certified~~ psychologists;
 - c. Psychiatrists;
 - d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - e. Licensed psychological associates;
 - f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - g. ~~Certified clinical social workers and licensed clinical social workers;~~ Clinical social workers licensed or certified by the North Carolina Social Work Certification and Licensure Board under Chapter 90B of the General Statutes.
 - h. Certified clinical specialists in psychiatric and mental health ~~nursing; nursing~~ in accordance with Article 9A of Chapter 90 of the General Statutes;
 - i. Licensed professional counselors;
 - j. Certified fee-based practicing pastoral ~~counselors;~~ counselors in accordance with Article 26 of Chapter 90 of the General Statutes;
 - ~~j-k.~~ Licensed marriage and family and therapists;
 - 1. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes;and
 - ~~k-m.~~ In the absence of meeting one of the criteria above, the Mental Health Case Manager could consider, on a case-by-case basis, a provider who supplies:
 - 1. Evidence of graduate education in the diagnosis and treatment of chemical dependency, and
 - 2. Supervised work experience in the diagnosis and treatment of chemical dependency (with supervision by an appropriately credentialed provider), and
 - 3. Substantive past and current continuing education in the diagnosis and treatment of chemical dependency commensurate with one's profession.

- (3) Physicians licensed under Chapter 90 of the General Statutes and certified professionals with training and experience in the care and treatment for chemical dependency and working under the direct supervision of such physicians.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost-effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency.

~~(d)~~(e) Benefits provided under this section shall be subject to a case management program for medical necessity and medical appropriateness consisting of (i) precertification of outpatient visits beyond 26 visits each Plan year, (ii) all electroconvulsive treatment, (iii) inpatient utilization review through preadmission and length-of-stay certification for nonemergency admissions to the following levels of care: inpatient units, partial hospitalization programs, residential treatment centers, chemical dependency detoxification and treatment programs, and intensive outpatient programs, (iv) length-of-stay certification of emergency inpatient admissions, and (v) a network of qualified, available providers of inpatient and outpatient psychiatric and chemical dependency treatment. Care which is not both medically necessary and medically appropriate will be noncertified, and benefits will be denied. ~~Where qualified preferred providers of inpatient and outpatient care are reasonably available, use of providers outside of the preferred network shall be subject to a twenty percent (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year to be assessed against each covered individual in addition to the general coinsurance percentage and maximum fiscal year amount specified by G.S. 135-40.4 and G.S. 135-40.6.~~

~~(e)~~(f) For the purpose of this section, "emergency" is the sudden and unexpected onset of a condition manifesting itself by acute symptoms of sufficient severity that, in the absence of an immediate psychiatric or chemical dependency inpatient admission, could imminently result in injury or danger to self or others.

~~(f)~~(g) ~~For purposes of~~As used in this section, the word "Plan" includes all optional and alternative plans, and programs available under the optional or alternative plans, ~~or plans~~ in effect under the State Health Plan and its successor Plans."

SECTION 3.(o) G.S. 135-40.10 is recodified as G.S. 135-39.22 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and, as recodified, reads as rewritten:

"§ **135-39.22. Persons eligible for Medicare.**Medicare; optional participation in other Medicare products.

(a) Benefits payable for covered expenses under this Plan in ~~G.S. 135-40.5~~G.S. 135-39.18 through ~~G.S. 135-40.9~~G.S. 135-39.22 will be reduced by any benefits payable for the same covered expenses under Medicare, so that Medicare will be the primary carrier except where compliance with federal law specifies otherwise.

(b) For those participants eligible for Medicare, the ~~State's plan~~Plan will be administered on a "carve out" basis. The provisions of the ~~plan~~Plan are applied to the charges not paid by Medicare (Parts A & B). In other words, those charges not paid by Medicare would be subject to the deductible and coinsurance of the Plan just as if the charges not paid by Medicare were the total bill.

(c) For those individuals eligible for Part A (at no cost to them), benefits under this program will be reduced by the amounts to which the covered individuals would be entitled to under Parts A and B of Medicare, even if they choose not to enroll for Part B.

(d) Notwithstanding the foregoing provisions of this section or any other provisions of the Plan, the Executive Administrator and Board of Trustees may enter into negotiations with the ~~Health Care Financing Administration,~~ Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services, in order to secure a more favorable coordination of the Plan's benefits with those provided by Medicare, including but not limited to, measures by which the Plan would provide Medicare benefits for all of its Medicare-eligible members in return for adequate payments from the federal government in providing such benefits. Should such negotiations result in an agreement favorable to the Plan and its Medicare-eligible members, the Executive Administrator and Board of Trustees may, after consultation with the Committee on Employee Hospital and Medical Benefits, implement such an agreement which shall supersede all other provisions of the Plan to the contrary related to its payment of claims for Medicare-eligible members.

(e) Notwithstanding subsections (a), (b), and (c) of this section, the Plan may offer an optional Medicare Advantage plan to a Medicare eligible Plan member. A Medicare Advantage plan offered by the Plan shall be an insured product offered through a private insurance carrier authorized by the Centers for Medicare and Medicaid Services to offer Medicare Advantage plans. A Medicare Advantage plan offered by the Plan shall not be a self-funded benefit plan underwritten by the State of North Carolina. Prescription drug benefits shall not be included in the benefits offered under a Medicare Advantage insurance product but shall continue to be provided by the Plan as authorized under G.S. 135-39.18.

An eligible Plan member may choose to enroll in a Medicare Advantage plan in lieu of any other benefit coverage plan offered under the Plan to Medicare eligible Plan members. A Medicare eligible Plan member must be enrolled in Medicare Part B to participate in an optional Medicare Advantage plan. A non-Medicare eligible dependent of a Medicare Advantage eligible Plan member may enroll on a fully contributory basis in benefit plans offered under the Plan to non-Medicare eligible Plan members. If an enrolled Plan member decides not to re-enroll in an optional Medicare Advantage plan during the Plan's annual enrollment period, the Plan member may at that time re-enroll in other benefit coverage offered by the Plan in accordance with the provisions of subsections (a), (b), and (c) of this section."

SECTION 3.(p) Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, is amended by adding the following new section to read: "**§ 135-39.23. Cost-savings initiatives and incentive programs authorized.**

(a) Cost-Saving Initiatives. – Coverage of Over-the-Counter Medications. – The Executive Administrator and Board of Trustees may authorize coverage for over-the-counter medications as recommended by the Plan's pharmacy and therapeutics committee. In approving for coverage one or more over-the-counter medications, the Executive Administrator and Board of Trustees shall ensure that each recommended over-the-counter medication has been analyzed to ensure medical effectiveness and Plan member safety. The analysis shall also address the financial impact on the Plan. The Executive Administrator and Board of Trustees may impose a co-payment to be paid by each covered individual for each packaged over-the-counter medication. The Executive Administrator and Board of Trustees may adopt policies establishing limits on the amount of coverage available for over-the-counter medications for each covered individual over a 12-month period. Prior to implementing policy and co-payment changes authorized under this section, the Executive Administrator and Board of

Trustees shall submit the proposed policies and co-payments to the Committee on Employee Hospital and Medical Benefits for its review.

(b) Incentive Programs. – For the purposes of helping Plan members to achieve and maintain a healthy lifestyle without impairing patient care, and to increase cost effectiveness in Plan coverage, the Executive Administrator and Board of Trustees may adopt programs offering incentives to Plan members to encourage changes in member behavior or lifestyle designed to improve member health and promote cost-efficiency in the Plan. Participation in one or more incentive programs is voluntary on the part of the Plan member. Before adopting an incentive program, the Executive Administrator and Board of Trustees shall conduct an impact analysis on the proposed incentive program to determine (i) whether the program is likely to result in significant member satisfaction, (ii) that it will not adversely affect quality of care, and (iii) whether it is likely to result in significant cost savings to the Plan. The impact analysis may be conducted by a committee of the Plan, in conjunction with the Plan's consulting actuary, provided that the Plan's medical director participates in the analysis. An approved incentive plan may provide for a waiver of deductibles, co-payments, and coinsurance required under this Article in order to determine the effectiveness of the incentive program in promoting the health of members and increasing cost-effectiveness to the Plan. The Executive Administrator and Board of Trustees shall, before implementing incentive programs authorized under this section, submit the proposed programs to the Committee on Employee Hospital and Medical Benefits for review."

SECTION 3.(q) G.S. 135-40.11 is recodified as G.S. 135-39.24 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

"§ 135-39.24. Cessation of coverage.

(a) Coverage under this Plan of an employee and his or her surviving spouse or eligible dependent children or of a retired employee and his or her surviving spouse or eligible dependent children shall cease on the earliest of the following dates:

- (1) The last day of the month in which an employee or retired employee dies. Provided such surviving spouse or eligible dependent children were covered under the Plan at the time of death of the former employee or retired employee, or were covered on September 30, 1986, any such surviving spouse or eligible dependent children may then elect to continue coverage under the Plan by submitting written application to the Claims Processor and by paying the cost for such coverage when due at the applicable fees. Such coverage shall cease on the last day of the month in which such surviving spouse or eligible dependent children die, except as provided by this Article.
- (2) The last day of the month in which an employee's employment with the State is terminated as provided in subsection (c) of this section.
- (3) The last day of the month in which a divorce becomes final.
- (4) The last day of the month in which an employee or retired employee requests cancellation of coverage.
- (5) The last day of the month in which a covered individual enters active military service.
- (6) The last day of the month in which a covered individual is found to have knowingly and willfully made or caused to be made a false statement or false representation of a material fact in a claim for reimbursement of medical services under the Plan. The Executive

Administrator and Board of Trustees may make an exception to the provisions of this subdivision when persons subject to this subdivision have had a cessation of coverage for a period of five years and have made a full and complete restitution to the Plan for all fraudulent claim amounts. Nothing in this subdivision shall be construed to obligate the Executive Administrator and Board of Trustees to make an exception as allowed for under this subdivision.

- (7) The last day of the month in which an employee who is Medicare-eligible selects Medicare to be the primary payer of medical benefits. Coverage for a Medicare-eligible spouse of an employee shall also cease the last day of the month in which Medicare is selected to be the primary payer of medical benefits for the Medicare-eligible spouse. Such members are eligible to apply for conversion coverage.

(b) Coverage under this Plan as a dependent child ceases when the child ceases to be a dependent child as defined by ~~G.S. 135-40.1(3)~~G.S. 135-39.13 except, coverage may continue under this Plan for a period of not more than 36 months after loss of dependent status on a fully contributory basis provided the dependent child was covered under the Plan at the time of loss of dependent status.

~~(b1)~~(c) Coverage under the Plan as a surviving dependent child whether covered as a dependent of a surviving spouse, or as an individual member (no living parent), ceases when the child ceases to be a dependent child as defined by ~~G.S. 135-40.1(3)~~G.S. 135-39.13, except coverage may continue under the Plan on a fully contributory basis for a period of not more than 36 months after loss of dependent status.

~~(e)~~(d) Termination of employment shall mean termination for any reason, including layoff and leave of absence, except as provided in subdivisions (a)(1) and (2) of this section, but shall not, for purposes of this Plan, include retirement upon which the employee is granted an immediate service or disability pension under and pursuant to a State-supported Retirement System.

- (1) In the event of termination for any reason other than death, coverage under the Plan for an employee and his or her eligible spouse or dependent children, provided the eligible spouse or dependent children were covered under the Plan at termination of employment may be continued for a period of not more than 18 months following termination of employment on a fully contributory basis. Employees who were covered under the Plan at termination of employment may be continued for a period of not more than 18 months or 29 months if determined to be disabled under the Social Security Act, Title II, OASDI or Title XVI, SSI.
- ~~(3)~~(2) In the event of approved leave of absence without pay, other than for active duty in the armed forces of the United States, coverage under this Plan for an employee and his or her dependents may be continued during the period of such leave of absence by the employee's paying one hundred percent (100%) of the cost.
- ~~(4)~~(3) If employment is terminated in the second half of a calendar month and the covered individual has made the required contribution for any coverage in the following month, that coverage will be continued to the end of the calendar month following the month in which employment was terminated.

~~(5)~~(4) Employees paid for less than 12 months in a year, who are terminated at the end of the work year and who have made contributions for the non-work months, will continue to be covered to the end of the period for which they have made contributions, with the understanding that if they are not employed by another State-covered employer under this Plan at the beginning of the next work year, the employee will refund to the ex-employer the amount of the employer's cost paid for them during the non-paycheck months.

~~(6)~~(5) Any employee receiving benefits pursuant to Article 6 of this Chapter when the employee has less than five years of retirement membership service, or an employee on leave of absence without pay due to illness or injury for up to 12 months, is entitled to continued coverage under the Plan for the employee and any eligible dependents by the employee's paying one hundred percent (100%) of the cost.

~~(d)~~ No benefits will be paid by this Plan for any expenses incurred or treatment received after cessation of coverage as provided in subsections (a) or (b) of this section, except that in the event of hospital confinement at that time, hospitalization benefits as described in G.S. 135-40.6 will continue to the extent provided therein.

~~(e)~~(d) A legally divorced spouse and any eligible dependent children of a covered employee or retired employee may continue coverage under this Plan for a period of not more than 36 months following the first of the month after a divorce becomes final on a fully contributory basis, provided the former spouse and any eligible dependent children were covered under the Plan at the time a divorce became final.

~~(f)~~(e) A legally separated spouse of a covered employee or retired employee may continue coverage under this Plan for a period not to exceed 36 months from the separation date on a fully contributory basis, provided the separated spouse was covered under the Plan at the time of separation and provided the covered employee's or retired employee's actions result in the loss of coverage for the separated spouse. Eligible dependent children may also continue coverage if covered under the Plan at time of separation, provided the employee's or retired employee's actions result in the loss of coverage for the dependent children.

~~(g)~~(f) Whenever this section gives a right to continuation coverage, such coverage must be elected ~~no later than a date set by the Executive Administrator and Board of Trustees within the time allowed by applicable federal law.~~

~~(h)~~(g) Continuation coverage under this Plan shall not be continued past the occurrence of any one of the following events:

- (1) The termination of the Plan.
- (2) Failure of a Plan member to pay monthly in advance any required premiums.
- (3) A person becomes a covered employee or a dependent of a covered employee under any group health plan and that group health plan has no restrictions or limitations on benefits.
- (4) A person becomes eligible for Medicare benefits on or after the effective date of the continuation coverage.
- (5) The person was determined to be no longer disabled, provided the 18-month coverage was extended to 29 months due to having been determined to be disabled under the Social Security Act, Title II, OASDI or Title XVI, SSI.

- (6) The person reaches the maximum applicable continuation period of 18, 29, or 36 months.

(h) Notice requirements concerning continuation coverage shall be developed by the Executive Administrator and Board of Trustees.

(i) The spouse and any eligible dependent children of a covered employee may continue coverage under the Plan on a fully contributory basis for a period not to exceed 36 months from the date the employee becomes eligible for Medicare benefits which results in a loss of coverage under the Plan, provided that the spouse and eligible dependent children were covered under the Plan at the time the employee became eligible for Medicare benefits which results in a loss of coverage under the Plan."

SECTION 3.(r) G.S. 135-40.12 is recodified as G.S. 135-39.25 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 3.(s) G.S. 135-40.13 is recodified as G.S. 135-39.26 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 3.(t) G.S. 135-40.13A is recodified as G.S. 135-39.27 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 3.(u) G.S. 135-40.14 is recodified as G.S. 135-39.28 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 3.(v) Effective July 1, 2008, the State Health Plan for Teachers and State Employees shall not limit the number of visits for covered services for physical therapy, occupational therapy, and speech therapy. This subsection expires July 1, 2009. Sections 28.22A(j) and (k) of S.L. 2007-323 are repealed.

SECTION 4.(a) Parts 4 and 5 of Article 3 of Chapter 135 of the General Statutes are recodified as Parts 4A and 5A, respectively, under Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 4.(b) G.S. 135-41, as amended by Section 28.22A(o) of S.L. 2007-323, is recodified under Part 4A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 4.(c) G.S. 135-41(b), as recodified by this act, and as amended by Section 28.22A(o) of S.L. 2007-323, reads as rewritten:

"(b) The long-term care benefits provided by this Part shall be made available through the State Health Plan for Teachers and State Employees pursuant to Article 2A and 3A of this Chapter (hereinafter called the "Plan") and administered by the Plan's Executive Administrator and Board of Trustees. In administering the benefits provided by this Part, the Executive Administrator and Board of Trustees shall have the same type of powers and duties that are provided under ~~Part 3~~Part 3A of this Article for hospital and medical benefits. The benefits provided by this Part may be offered by the Plan on a self-insured basis, in which case a third-party claims processor shall be chosen through competitive ~~bids in accordance with State law,~~bids, or through a contract of insurance, in which case a carrier licensed to do business in North Carolina shall be selected on a competitive bid basis in accordance with State law."

SECTION 4.(d) G.S. 135-41.1 is recodified under Part 4A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

SECTION 4.(e) The lead paragraph of G.S. 135-41.1, as recodified by this act under Part 4A of this Article, reads as rewritten:

"§ 135-41.1. Long-term care benefits.

Long-term care benefits provided by this Part are subject to elimination periods, coinsurance provisions, and other limitations separate and apart from those provided for

in ~~Part 3~~ Part 3A of this Article. No limitation on out-of-pocket expenses are provided for the benefits covered by this section. Long-term care benefits are as follows:"

SECTION 5.(a) Effective July 1, 2008, G.S. 150B-1(d)(7), as amended by Section 28.22A(o) of S.L. 2007-323, reads as rewritten:

"(7) The State Health Plan for Teachers and State Employees in administering the provisions of ~~Parts 2, 3, 4, and 5 of Article 3~~ Article 3A of Chapter 135 of the General Statutes."

SECTION 5.(b) G.S. 150B-44 reads as rewritten:

"§ **150B-44. Right to judicial intervention when decision unreasonably delayed.**

Unreasonable delay on the part of any agency or administrative law judge in taking any required action shall be justification for any person whose rights, duties, or privileges are adversely affected by such delay to seek a court order compelling action by the agency or administrative law judge. An agency that is subject to Article 3 of this Chapter and is not a board or commission has 60 days from the day it receives the official record in a contested case from the Office of Administrative Hearings to make a final decision in the case. This time limit may be extended by the parties or, for good cause shown, by the agency for an additional period of up to 60 days. An agency that is subject to Article 3 of this Chapter and is a board or commission has 60 days from the day it receives the official record in a contested case from the Office of Administrative Hearings or 60 days after its next regularly scheduled meeting, whichever is longer, to make a final decision in the case. This time limit may be extended by the parties or, for good cause shown, by the agency for an additional period of up to 60 days. If an agency subject to Article 3 of this Chapter has not made a final decision within these time limits, the agency is considered to have adopted the administrative law judge's decision as the agency's final decision. Failure of an agency subject to Article 3A of this Chapter to make a final decision within 120 days of the close of the contested case hearing is justification for a person whose rights, duties, or privileges are adversely affected by the delay to seek a court order compelling action by the agency or, if the case was heard by an administrative law judge, by the administrative law judge. The Board of Trustees of the North Carolina State Health Plan for Teachers and State Employees is a "board" for purposes of this section."

SECTION 6. Section 31.24 of S.L. 2004-124 is repealed.

SECTION 7. This act becomes effective July 1, 2008.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 2:45 p.m. on the 4th day of August, 2008.

Session Law 2008-169

H.B. 2492

AN ACT TO AMEND THE REQUIREMENTS FOR RELEASE OF JUVENILE IDENTIFICATION UPON ESCAPE FROM CUSTODY, BASED ON RECOMMENDATIONS BY THE JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-3102 reads as rewritten:

"§ 7B-3102. **Disclosure of information about juveniles who escape.**

(a) Notwithstanding G.S. 7B-2102(d) or any other law to the contrary, within 24 hours of the time a juvenile escapes from custody the Department shall release to the public the juvenile's first name, last initial, and photograph; the name and location of the institution from which the juvenile ~~escaped;~~escaped, or if the juvenile's escape was not from an institution, the circumstances and location of the escape; and a statement, based on the juvenile's record, of the level of concern of the Department as to the juvenile's threat to self or to others, ~~if;~~if

- (1) ~~The the juvenile escapes from a detention facility, secure custody, or a youth development center and the juvenile is alleged to have committed an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.~~has been adjudicated delinquent.
- (2) ~~The juvenile escapes from a youth development center, and the juvenile has been adjudicated delinquent for an offense that would be a felony or a Class A1 misdemeanor if committed by an adult.~~

(b) When a juvenile escapes from a detention facility or secure custody, ~~and the juvenile has been adjudicated for an offense that would be a Class 1, 2, or 3 misdemeanor if committed by an adult,~~ the Department may release to the public within 24 hours the juvenile's first name, last initial, and photograph; the name and location of the institution from which the juvenile escaped, or if the juvenile's escape was not from an institution, the circumstances and location of the escape; and a statement, based on the juvenile's record, of the level of concern of the Department as to the juvenile's threat to self or to ~~others.~~others if both of the following apply:

- (1) The juvenile is alleged to have committed an offense that would be a felony if committed by an adult.
- (2) The Department determines, based on the juvenile's record, that the juvenile presents a danger to self or others.

(c) If a juvenile subject to subsection (a) or (b) of this section is returned to custody before the disclosure required or permitted is made, the Department shall not make the disclosure.

(d) The Department shall maintain a photograph of every juvenile in its custody.

(e) Before information is released to the public under this section, the Department shall make a reasonable effort to notify a parent, legal guardian, or custodian of the juvenile."

SECTION 2. This act becomes effective October 1, 2008.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 2:47 p.m. on the 4th day of August, 2008.

Session Law 2008-170

H.B. 1113

AN ACT TO LIMIT THE USE OF THE PUBLIC DUTY DOCTRINE AS AN AFFIRMATIVE DEFENSE FOR CLAIMS UNDER THE STATE TORT CLAIMS ACT IN WHICH THE INJURIES OF THE CLAIMANT ARE THE RESULT OF THE ALLEGED NEGLIGENT FAILURE OF CERTAIN PARTIES TO PROTECT CLAIMANTS FROM THE ACTION OF OTHERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 31 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-299.1A. Limit use of public duty doctrine as an affirmative defense.

(a) Except as provided in subsection (b) of this section, the public duty doctrine is an affirmative defense on the part of the State department, institution, or agency against which a claim is asserted if and only if the injury of the claimant is the result of any of the following:

- (1) The alleged negligent failure to protect the claimant from the action of others or from an act of God by a law enforcement officer as defined in subsection (d) of this section.
- (2) The alleged negligent failure of an officer, employee, involuntary servant or agent of the State to perform a health or safety inspection required by statute.

(b) Notwithstanding subsection (a) of this section, the affirmative defense of the public duty doctrine may not be asserted in any of the following instances:

- (1) Where there is a special relationship between the claimant and the officer, employee, involuntary servant or agent of the State.
- (2) When the State, through its officers, employees, involuntary servants or agents, has created a special duty owed to the claimant and the claimant's reliance on that duty is causally related to the injury suffered by the claimant.
- (3) Where the alleged failure to perform a health or safety inspection required by statute was the result of gross negligence.

(c) Nothing in this section shall limit the assertion of the public duty doctrine as a defense on the part of a unit of local government or its officers, employees, or agents.

(d) For purposes of this section, "law enforcement officer" means a full-time or part-time employee or agent of a State department, institution, or agency or an agent of the State operating under an agreement with a State department, institution, or agency of the State who is any of the following:

- (1) Actively serving in a position with assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the State or serving civil processes.
- (2) Possesses the power of arrest by virtue of an oath administered under the authority of the State.
- (3) Is a juvenile justice officer, chief court counselor, or juvenile court counselor.
- (4) Is a correctional officer performing duties of custody, supervision, and treatment to control and rehabilitate criminal offenders.
- (5) Is a firefighter as defined in G.S. 113-60.32(1).
- (6) Is a probation officer appointed under Article 20 of Chapter 15 of the General Statutes."

SECTION 2. This act becomes effective October 1, 2008, and applies to claims arising on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2008.

Became law upon approval of the Governor at 2:48 p.m. on the 4th day of August, 2008.

Session Law 2008-171

H.B. 1889

AN ACT TO PROVIDE PROPERTY TAX RELIEF FOR QUALIFYING WILDLIFE CONSERVATION LAND, TO CLARIFY THE PRESENT-USE VALUATION OF PROPERTY SUBJECT TO A CONSERVATION EASEMENT, AND TO PROVIDE A PROPERTY TAX EXEMPTION FOR LEASEHOLD INTEREST IN CERTAIN EXEMPTED PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"§ 105-277.15. Taxation of wildlife conservation land.

(a) Definitions. – The following definitions apply in this section:

- (1) Business entity. – Defined in G.S. 105-277.2.
- (2) Family business entity. – A business entity whose members are, directly or indirectly, individuals and are relatives. An individual is indirectly a member of a business entity if the individual is a member of a business entity or a beneficiary of a trust that is part of the ownership structure of the business entity.
- (3) Family trust. – A trust that was created by an individual and whose beneficiaries are, directly or indirectly, individuals who are the creator of the trust or a relative of the creator. An individual is indirectly a beneficiary of a trust if the individual is a beneficiary of another trust or a member of a business entity that has a beneficial interest in the trust.
- (4) Member. – Defined in G.S. 105-277.2.
- (5) Relative. – Defined in G.S. 105-277.2.

(b) Classification. – Wildlife conservation land is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section. Wildlife conservation land classified under this section must be appraised and assessed as if it were classified under G.S. 105-277.3 as agricultural land.

(c) Requirements. – Land qualifies as wildlife conservation land if it meets the following size, ownership, and use requirements:

- (1) Size. – The land must consist of at least 20 contiguous acres.
- (2) Ownership. – The land must be owned by an individual, a family business entity, or a family trust and must have been owned by the same owner for the previous five years, except as follows:
 - a. If the land is owned by a family business entity, the land meets the ownership requirement if the land was owned by one or more members of the family business entity for the required time.
 - b. If the land is owned by a family trust, the land meets the ownership requirement if the land was owned by one or more beneficiaries of the family trust for the required time.
 - c. If an owner acquires land that was classified as wildlife conservation land under this section when it was acquired and the owner continues to use the land as wildlife conservation land, then the land meets the ownership requirement if the new

owner files an application and signs the wildlife habitat conservation agreement in effect for the property within 60 days after acquiring the property.

- (3) Use. – The land must meet all of the following requirements:
- a. The land must be managed under a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission that is in effect as of January 1 of the year for which the benefit of this section is claimed and that requires the owner to do one or more of the following:
 1. Protect an animal species that lives on the land and, as of January 1 of the year for which the benefit of this section is claimed, is on a North Carolina protected animal list published by the Commission under G.S. 113-333.
 2. Conserve any of the following priority animal wildlife habitats: longleaf pine forest, early successional habitat, small wetland community, stream and riparian zone, rock outcrop, or bat cave.
 - b. It must have been classified under G.S. 105-277.3 when the wildlife habitat conservation agreement was signed or the owner must demonstrate to both the Wildlife Resources Commission and the assessor that the owner used the land for a purpose specified in the signed wildlife habitat conservation agreement for three years preceding the January 1 of the year for which the benefit of this section is claimed.

(d) Restrictions. – The following restrictions apply to the classification allowed under this section:

- (1) No more than 100 acres of an owner's land in a county may be classified under this section.
- (2) Land owned by a business entity is not eligible for classification under this section if the business entity is a corporation whose shares are publicly traded or one of its members is a corporation whose shares are publicly traded.

(e) Deferred Taxes. – The difference between the taxes that are due on wildlife conservation land classified under this section and that would be due if the land were taxed on the basis of its true value is a lien on the property. The difference in taxes must be carried forward in the records of each taxing unit as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1D when the land loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the property no longer qualifies as wildlife conservation land.

(f) Exceptions to Payment. – No deferred taxes are due in the following circumstances and the deferred taxes remain a lien on the land:

- (1) When the owner of wildlife conservation land that was previously classified under G.S. 105-277.3 before the wildlife habitat conservation agreement was signed does not transfer the land and the land again becomes eligible for classification under G.S. 105-277.3. In this circumstance, the deferred taxes are payable in accordance with G.S. 105-277.3.

- (2) When land that is classified under this section is transferred to an owner who signed the wildlife habitat conservation agreement in effect for the land at the time of the transfer and the land remains classified under this section. In this circumstance, the deferred taxes are payable in accordance with this section.

(g) Exceptions to Payment and Lien. – Notwithstanding subsection (e) of this section, if land loses its eligibility for deferral solely due to one of the following reasons, no deferred taxes are due and the lien for the deferred taxes is extinguished:

- (1) The property is conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base under G.S. 105-275(12) or G.S. 105-275(29).
- (2) The property is conveyed by gift to the State, a political subdivision of the State, or the United States.

(h) Administration. – An owner who applies for the classification allowed under this section must attach a copy of the owner's written wildlife habitat agreement required under subsection (c) of this section. An owner who fails to notify the county assessor when land classified under this section loses its eligibility for classification is subject to a penalty in the amount set in G.S. 105-277.5."

SECTION 2. G.S. 105-277.1D(a), as enacted by Section 2.2 of S.L. 2008-35 and amended by Section 28.11(h) of House Bill 2436 of the 2008 Session, reads as rewritten:

"(a) Scope. – This section applies to the following deferred tax programs:

- (1) G.S. 105-275(29a), historic district property held as future site of historic structure.
- (2) G.S. 105-277.1B, the property tax homestead circuit breaker.
- (3) G.S. 105-277.4(c), present-use value property.
- (4) G.S. 105-277.14, working waterfront property.
- (5) G.S. 105-277.15, wildlife conservation land.
- ~~(5)~~(6) G.S. 105-278(b), historic property.
- ~~(6)~~(7) G.S. 105-278.6(e), nonprofit property held as future site of low- or moderate-income housing."

SECTION 3. G.S. 105-282.1(a)(2) reads as rewritten:

- "(2) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2009)** Single application required. – An owner of one or more of the following properties eligible for a property tax benefit must file an application for the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the benefit.
- a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
- b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.

- c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, ~~105-278~~, 105-278, or 105-277.15.
- d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.
- e. Special classes of property eligible for tax relief under G.S. 105-277.1B."

SECTION 4. G.S. 105-277.3(d1) reads as rewritten:

"(d1) Exception for Easements on Qualified Conservation Lands Previously Appraised at Use Value. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this ~~section~~-section; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to an enforceable conservation easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

SECTION 5. G.S. 105-277.3 is amended by adding a new subsection to read:

"(d2) Wildlife Exception. – When an owner of land classified under this section does not transfer the land and the land becomes eligible for classification under G.S. 105-277.15, no deferred taxes are due. The deferred taxes remain a lien on the land and are payable in accordance with G.S. 105-277.15."

SECTION 6. The Revenue Laws Study Committee is directed to study the three-year impact of classifying land as wildlife conservation land for property tax purposes. The study must include a review of the amount of property classified as wildlife conservation land, the fiscal impact on local governments, and any other impact.

The Revenue Laws Study Committee must include its findings in the 2015 report.

SECTION 7.(a) G.S. 105-275(31) reads as rewritten:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

- ...
- (31) Intangible personal property other than a leasehold ~~interests~~-interest that is in exempted real ~~property~~-property and is not excluded under subdivision (31e) of this section. This subdivision does not affect the taxation of software not otherwise excluded by subdivision (40) of this section."

SECTION 7.(b) G.S. 105-275 is amended by adding a new subdivision to read:

"(31e) A leasehold interest in real property that is exempt under G.S. 105-278.1 and is used to provide affordable housing for employees of the unit of government that owns the property."

SECTION 7.(c) G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Single application required. – An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:

- a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
- b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35), (36), (38), (39), or (41) or under G.S. 131A-21.
- c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, 105-278.
- d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8."

SECTION 8. Sections 1 through 5 of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2010. Section 7 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. Notwithstanding G.S. 105-282.1, an application for the exclusion in G.S. 105-275(31e), as enacted by this act, is timely if filed on or before September 1, 2008. 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, 2008.

Became law upon approval of the Governor at 2:50 p.m. on the 4th day of August, 2008.

Session Law 2008-172

H.B. 2265

AN ACT TO EXEMPT BUSES FROM SAFETY INSPECTIONS REQUIRED UNDER MOTOR VEHICLE LAWS IF THEY ARE TITLED TO A LOCAL BOARD OF EDUCATION AND SUBJECT TO SCHOOL BUS INSPECTION REQUIREMENTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.2(a1) reads as rewritten:

"(a1) Safety Inspection ~~Exception~~Exceptions. – ~~Historic vehicles, as defined in G.S. 20-79.4(b)(55)~~The following vehicles shall not be subject to a safety inspection pursuant to this ~~Article~~Article:

- (1) Historic vehicles, as defined in G.S. 20-79.4(b)(55).
- (2) Buses titled to a local board of education and subject to the school bus inspection requirements specified by the State Board of Education and G.S. 115C-248(a)."

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, 2008.

Became law upon approval of the Governor at 2:52 p.m. on the 4th day of August, 2008.

Session Law 2008-173

H.B. 2105

AN ACT TO INCREASE THE COMPENSATION PROVIDED TO PERSONS ERRONEOUSLY CONVICTED OF FELONIES WHO HAVE RECEIVED PARDONS OF INNOCENCE; TO REQUIRE THE INDUSTRIAL COMMISSION TO ANNUALLY ADJUST THE COMPENSATION TO REFLECT INCREASES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS; AND TO ALLOW THE INDUSTRIAL COMMISSION TO AWARD ADDITIONAL COMPENSATION OF JOB SKILLS TRAINING AND EXPENSES FOR TUITION AND FEES AT A NORTH CAROLINA COMMUNITY COLLEGE OR CONSTITUENT INSTITUTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 148-84 reads as rewritten:

"§ 148-84. **Evidence; action by Industrial Commission; payment and amount of compensation.**

(a) At the hearing the claimant may introduce evidence in the form of affidavits or testimony to support the claim, and the Attorney General may introduce counter affidavits or testimony in refutation. If the Industrial Commission finds from the evidence that the claimant received a pardon of innocence for the reason that the crime was not committed at all, or was not committed by the claimant, and that the claimant was imprisoned and has been vindicated in connection with the alleged offense for which he or she was imprisoned, the Industrial Commission shall award to the claimant an amount equal to ~~twenty thousand dollars (\$20,000)~~ fifty thousand dollars (\$50,000) for each year or the pro rata amount for the portion of each year of the imprisonment actually served, including any time spent awaiting ~~trial, but in trial.~~ trial. However, (i) in no event shall the ~~compensation~~ compensation, including the compensation provided in subsections (b) and (c) of this section, exceed a total amount of ~~five hundred thousand dollars (\$500,000)~~ seven hundred fifty thousand dollars (\$750,000), and (ii) a claimant is not entitled to compensation for any portion of a prison sentence during which the claimant was also serving a concurrent sentence for conviction of a crime other than the one for which the pardon of innocence was granted.

The Director of the Budget shall pay the amount of the award to the claimant out of the Contingency and Emergency Fund, or out of any other available State funds. The Industrial Commission shall give written notice of its decision to all parties concerned.

The determination of the Industrial Commission shall be subject to judicial review upon appeal of the claimant or the State according to the provisions and procedures set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 2. G.S. 148-84 is amended by adding new subsections to read:

"(c) In addition to the compensation provided under subsections (a) and (b) of this section, the Industrial Commission shall determine the extent to which incarceration has deprived a claimant of educational or training opportunities and, based upon those findings, may award the following compensation for loss of life opportunities:

- (1) Job skills training for at least one year through an appropriate State program; and
- (2) Expenses for tuition and fees at any public North Carolina community college or constituent institution of The University of North Carolina for any degree or program of the claimant's choice that is available from one or more of the applicable institutions. Claimants are also entitled to assistance in meeting any admission standards or criteria required at any of those institutions, including assistance in satisfying requirements for a certificate of equivalency of completion of secondary education. A claimant may apply for aid under this subdivision within 10 years of the claimant's release from incarceration, and aid shall continue for up to a total of five years when initiated within the 10-year period, provided the claimant makes satisfactory progress in the courses or degree program in which the claimant is enrolled."

SECTION 3. This act is effective when it becomes law and applies to any person granted a pardon of innocence by the Governor on or after January 1, 2004.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 2:53 p.m. on the 4th day of August, 2008.

Session Law 2008-174

H.B. 2306

AN ACT TO REQUIRE THE STATE BOARD OF EDUCATION AND DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DETERMINE RESPONSIBILITY FOR CHILDREN WITH DISABILITIES PLACED IN PRIVATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES BY PUBLIC AGENCIES OTHER THAN LOCAL EDUCATIONAL AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education and Department of Health and Human Services shall jointly meet and make a determination as to which public agency is responsible for providing special education and related services as required under Article 9 of Chapter 115C of the General Statutes and the federal Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 144, et seq., (2004), as amended, for children with disabilities who are placed in private psychiatric residential treatment facilities by a public agency other than the local educational agency. The State Board of Education and Department of Health and Human Services shall report the determination and any recommended legislation or policy changes by January 1, 2009, to the Joint Legislative Education Oversight Committee and the Joint Legislative Oversight

Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

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, 2008.

Became law upon approval of the Governor at 2:55 p.m. on the 4th day of August, 2008.

Session Law 2008-175

H.B. 2308

AN ACT TO AMEND THE LAWS GOVERNING COMMERCIAL DRIVERS LICENSES IN ORDER TO COMPLY WITH FEDERAL LAW, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-17.4 reads as rewritten:

"§ 20-17.4. Disqualification to drive a commercial motor vehicle.

(a) One Year. – Any of the following disqualifies a person from driving a commercial motor vehicle for one year if committed by a person holding a commercial drivers license, or, when applicable, committed while operating a commercial motor vehicle by a person who does not hold a commercial drivers license:

- (1) A first conviction of G.S. 20-138.1, driving while impaired, for a holder of a commercial drivers license that occurred while the person was driving a motor vehicle that is not a commercial motor vehicle.
- (2) A first conviction of G.S. 20-138.2, driving a commercial motor vehicle while impaired.
- (3) A first conviction of G.S. 20-166, hit and run.
- (4) A first conviction of a felony in the commission of which a commercial motor vehicle was used or the first conviction of a felony in which any motor vehicle is used by a holder of a commercial drivers license.
- (5) Refusal to submit to a chemical test when charged with an implied-consent offense, as defined in G.S. 20-16.2.
- (6) A second or subsequent conviction, as defined in G.S. 20-138.2A(d), of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A.
- (7) A civil license revocation under G.S. 20-16.5, or a substantially similar revocation obtained in another jurisdiction, arising out of a charge that occurred while the person was either operating a commercial motor ~~vehicle-vehicle~~ or while the person was holding a commercial drivers license.
- (8) A first conviction of vehicular homicide under G.S. 20-141.4 or vehicular manslaughter under G.S. 14-18 occurring while the person was operating a commercial motor vehicle.
- (9) Driving a commercial motor vehicle during a period when the person's commercial drivers license is revoked, suspended, cancelled, or the driver is otherwise disqualified from operating a commercial motor vehicle.

(a1) Ten-Day Disqualification. – A person who is convicted for a first offense of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A is disqualified from driving a commercial motor vehicle for 10 days.

(b) Modified Life. – A person who has been disqualified from driving a commercial motor vehicle for a conviction or refusal described in subsection (a) who, as the result of a separate incident, is subsequently convicted of an offense or commits an act requiring disqualification under subsection (a) is disqualified for life. The Division may adopt guidelines, including conditions, under which a disqualification for life under this subsection may be reduced to 10 years.

(b1) Life Without Reduction. – A person is disqualified from driving a commercial motor vehicle for life, without the possibility of reinstatement after 10 years, if that person is convicted of a third or subsequent violation of G.S. 20-138.2, a fourth or subsequent violation of G.S. 20-138.2A, or if the person refuses to submit to a chemical test a third time when charged with an implied-consent offense, as defined in G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle.

(c) Life. – A person is disqualified from driving a commercial motor vehicle for life if that person either uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance, or is the holder of a commercial drivers license at the time of the commission of any such felony.

(d) Less Than a Year. – A person is disqualified from driving a commercial motor vehicle for 60 days if that person is convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, arising from separate incidents occurring within a three-year period, committed in a commercial motor vehicle or while holding a commercial drivers license. ~~arising from separate incidents occurring within a three-year period.~~ This disqualification shall be in addition to, and shall be served at the end of, any other prior disqualification. For purposes of this subsection, a "serious violation" includes violations of G.S. 20-140(f) and G.S. 20-141(j3).

(e) Three Years. – A person is disqualified from driving a commercial motor vehicle for three years if that person is convicted of an offense or commits an act requiring disqualification under subsection (a) and the offense or act occurred while the person was transporting a hazardous material that required the motor vehicle driven to be placarded.

(f) Revocation Period. – A person is disqualified from driving a commercial motor vehicle for the period during which the person's regular or commercial drivers license is revoked, suspended, or cancelled.

(g) Violation of Out-of-Service Order. – Any person convicted for violating an out-of-service order, except as described in subsection (h) of this section, shall be disqualified as follows:

- (1) A person is disqualified from driving a commercial vehicle for a period of 90 days if convicted of a first violation of an out-of-service order.
- (2) A person is disqualified for a period of one year if convicted of a second violation of an out-of-service order during any 10-year period, arising from separate incidents.

- (3) A person is disqualified for a period of three years if convicted of a third or subsequent violation of an out-of-service order during any 10-year period, arising from separate incidents.

(h) Violation of Out-of-Service Order; Special Rule for Hazardous Materials and Passenger Offenses. – Any person convicted for violating an out-of-service order while transporting hazardous materials or while operating a commercial vehicle designed or used to transport more than 15 passengers, including the driver, shall be disqualified as follows:

- (1) A person is disqualified for a period of 180 days if convicted of a first violation of an out-of-service order.
- (2) A person is disqualified for a period of three years if convicted of a second or subsequent violation of an out-of-service order during any 10-year period, arising from separate incidents.

(i) Disqualification for Out-of-State Violations. – The Division shall withdraw the privilege to operate a commercial vehicle of any resident of this State or person transferring to this State upon receiving notice of the person's conviction or Administrative Per Se Notice in another state for an offense that, if committed in this State, would be grounds for disqualification, even if the offense occurred in another jurisdiction prior to being licensed in this State where no action had been taken at that time in the other jurisdiction. The period of disqualification shall be the same as if the offense occurred in this State.

(j) Disqualification of Persons Without Commercial Drivers Licenses. – Any person convicted of an offense that requires disqualification under this section, but who does not hold a commercial drivers license, shall be disqualified from operating a commercial vehicle in the same manner as if the person held a valid commercial drivers license.

(k) Disqualification for Railroad Grade Crossing Offenses. – Any person convicted of a violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is operating a commercial motor vehicle, shall be disqualified from driving a commercial motor vehicle as follows:

- (1) A person is disqualified for a period of 60 days if convicted of a first violation of a railroad grade crossing offense listed in this subsection.
- (2) A person is disqualified for a period of 120 days if convicted during any three-year period of a second violation of any combination of railroad grade crossing offenses listed in this subsection.
- (3) A person is disqualified for a period of one year if convicted during any three-year period of a third or subsequent violation of any combination of railroad grade crossing offenses listed in this subsection.

(l) ~~Disqualification Based on~~ Disqualification for Testing Positive in a Drug or Alcohol Test. – Upon receipt of notice of a positive drug or alcohol test, or of refusal to participate in a drug or alcohol test, pursuant to G.S. 20-37.19(c), the Division must disqualify a CDL holder from operating a commercial motor vehicle for a minimum of 30 days and until receipt of proof of successful completion of assessment and treatment by a substance abuse professional in accordance with 49 C.F.R. § 382.503.

(m) Disqualifications of Drivers Who Are Determined to Constitute an Imminent Hazard. – The Division shall withdraw the privilege to operate a commercial motor vehicle for any resident of this State for a period of 30 days in accordance with 49 C.F.R. § 383.52."

SECTION 2. G.S. 20-37.20A reads as rewritten:

"§ 20-37.20A. **Driving record notation for testing positive in a drug or alcohol test.**

Upon receipt of notice pursuant to G.S. 20-37.19(c) of positive result in an alcohol or drug test of a person holding a commercial drivers license, and subject to any appeal of the disqualification pursuant to G.S. 20-37.20B, the Division shall place a notation on the driving record of the driver. A notation of a disqualification pursuant to G.S. 20-17.4(l) shall be retained on the record of a person for a period of ~~two~~ three years following the end of any disqualification of that person."

SECTION 3. This act becomes effective December 1, 2008, 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, 2008.

Became law upon approval of the Governor at 2:57 p.m. on the 4th day of August, 2008.

Session Law 2008-176

H.B. 2313

AN ACT TO PROVIDE AN EXPRESS PERMITTING REVIEW PROGRAM FOR CONNECTIONS TO THE STATE HIGHWAY SYSTEM, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE; AND TO EXEMPT CERTAIN GREENHOUSES LOCATED INSIDE THE BUILDING-RULES JURISDICTION OF ANY MUNICIPALITY FROM THE BUILDING CODE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ **136-93.1. Express permit review program.**

(a) Program Created. – The Department shall develop a fee-supported express permit review program in each highway division. The program is voluntary for permit applicants and applies to permits, approvals, or certifications that allow for a connection to the State highway system through the use of a driveway, street, signal, drainage, or any other encroachment.

(b) Implementation. – An individual highway division may opt out of the express permit review program created under this section if the highway division routinely reviews and issues special commercial permits within an average of 45 days. Any express permit review program created under this section shall be supported by the fees established pursuant to subsection (e) of this section.

(c) Procedure. – In reviewing a permit application under the express permit review program, the Department shall undergo the following steps:

- (1) The Department shall, within three business days of receipt, determine whether an express permit review application is complete. If the Department determines the express permit review application is not complete, the Department shall return the express permit review application and all fees to the permit applicant to allow for a complete express permit review application to be resubmitted to the Department.
- (2) If the Department determines the express permit review application is complete, the Department shall, within 45 days, issue or deny the permit based upon its review of the application. Failure of the

Department to issue or deny the permit within 45 days is a denial of the express permit review application.

(d) Staffing. – In order to implement the express permit review program, the Department may utilize either of the following or a combination thereof:

- (1) Existing Department staff and resources.
- (2) Contracted engineering firms supporting each highway division to provide express permit reviews, comments, and recommendations for issuing express permits. If the Department utilizes contracted engineering firms to provide work under this section, any fees received by the Department pursuant to subsection (e) of this section shall be credited towards the cost of the Department utilizing these contracted engineering firms. Any additional costs associated with engaging the contracted engineering firm shall be agreed to by the permit applicant prior to incurring the costs and shall be paid by the permit applicant.

(e) Fees. – The Department may determine the fees for an express application review under the express review program conducted by highway division staff. Unless a contracted engineering firm is utilized, the maximum permit application fee to be charged under this section for an express review of a project application requiring all of the permits listed under subsection (a) of this section shall not exceed four thousand dollars (\$4,000). Notwithstanding Chapter 150B of the General Statutes, the Department shall establish the procedure by which the amount of the fees under this subsection are established and applied for an express review program permitted by this section. The fee schedule established by the Department shall be applicable to all divisions participating in an express permit review program.

(f) Use of Fees. – All fees collected under this section shall be used to fund the cost of administering and implementing express permit review programs created under this section. These costs include the salaries of the program's staff and costs of contracted engineering firms.

(g) Reports. – No later than March 1 of each year, the Department shall report to the Fiscal Research Division and the Joint Legislative Transportation Oversight Committee on the express permitting review program. The report shall include the cost of administering the program in each division, the number of express permits issued, the turnaround time for permits, the amount of fees collected per division, and the method that divisions use to implement the program."

SECTION 2. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that ~~nothing in this Article shall be construed to make any building rules applicable to~~ do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, or (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses. A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars (\$20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices

- (1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,
- (2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and
- (3) Any rules relating to sanitation adopted by the Commission for Health Services which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the

Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

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, 2008.

Became law upon approval of the Governor at 2:59 p.m. on the 4th day of August, 2008.

Session Law 2008-177

H.B. 2353

**AN ACT TO AUTHORIZE THE LICENSURE OF IRRIGATION CONTRACTORS
AND TO ADD TWO MORE LEGISLATIVE APPOINTMENTS TO THE NORTH
CAROLINA APPRAISAL BOARD.**

Whereas, North Carolina has been in an extreme drought, and water is our most basic and precious natural resource; and

Whereas, the efficient use of water is of utmost importance; and

Whereas, the North Carolina Green Industry has an annual economic impact of \$8.7 billion and offers employment to over 150,000 people in the State; and

Whereas, the proper design, installation, repair, and maintenance of landscape irrigation systems is critical to increase the efficiency of water use; and

Whereas, the U.S. Environmental Protection Agency has suggested that proper and efficient irrigation practices can reduce water consumption by at least 20%; and

Whereas, the North Carolina Green Industry and the Carolinas Irrigation Association recognize the need to require better and more efficient irrigation practices; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 89G.
"Irrigation Contractors.

"§ 89G-1. Definitions.

The following definitions apply in this Chapter:

- (1) Board. – The North Carolina Irrigation Contractors' Licensing Board.
- (2) Irrigation contractor. – Any person who, for compensation or other consideration, constructs, installs, expands, services, or repairs irrigation systems.
- (3) Irrigation construction or contracting. – The act of providing services as an irrigation contractor for compensation or other consideration.
- (4) Irrigation system. – All piping, fittings, sprinklers, drip tubing, valves, control wiring of 30 volts or less, and associated components installed for the delivery and application of water for the purpose of irrigation that are downstream of a well, pond or other surface water, potable water or groundwater source, or grey water source and downstream of a backflow prevention assembly. Surface water, potable water or groundwater sources, water taps, utility piping, water service lines, water meters, backflow prevention assemblies, stormwater systems that service only the interior of a structure, and sanitary drainage systems are not part of an irrigation system.
- (5) Person. – An individual, firm, partnership, association, corporation, or other legal entity.

"§ 89G-2. License required.

Except as otherwise provided in this Chapter, no person shall engage in the practice of irrigation construction or contracting, use the designation 'irrigation contractor,' or advertise using any title or description that implies licensure as an irrigation contractor unless the person is licensed as an irrigation contractor as provided by this Chapter. All irrigation construction or contracting performed by an individual, partnership, association, corporation, firm, or other group shall be under the direct supervision of an individual licensed by the Board under this Chapter.

"§ 89G-3. Exemptions.

The provisions in this Chapter shall not apply to:

- (1) Any federal or State agency or any political subdivision performing irrigation construction or contracting work on public property.
- (2) Any property owner who performs irrigation construction or contracting work on his or her own property.
- (3) A landscape architect registered under Chapter 89A of the General Statutes.
- (4) A professional engineer licensed under Chapter 89C of the General Statutes.
- (5) Any irrigation construction or contracting work where the price of all contracts for labor, material, and other items for a given jobsite is less than two thousand five hundred dollars (\$2,500).
- (6) Any person performing irrigation construction or contracting work for temporary irrigation to establish vegetative cover for erosion control.

- (7) Any person performing irrigation construction or contracting work to control dust on commercial construction sites or mining operations.
- (8) Any person performing irrigation construction or contracting work for use in agricultural production, farming, or ranching, including land application of animal wastewater.
- (9) Any person performing irrigation construction or contracting work for use in commercial sod production.
- (10) Any person performing irrigation construction or contracting work for use in the commercial production of horticultural crops, including nursery and greenhouse operators.
- (11) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes.
- (12) A wastewater contractor certified under Article 5 of Chapter 90A of the General Statutes who performs only the construction of or repair to a wastewater dispersal system.
- (13) A public utility contractor licensed under Article 1 of Chapter 87 of the General Statutes.
- (14) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes who performs only the following work: installation, repairs, or maintenance of water mains, water taps, service lines, water meters, or backflow prevention assemblies supplying water for irrigation systems; or repairs to an irrigation system.
- (15) Any person performing irrigation construction or contracting work for a golf course.
- (16) Any person maintaining or repairing an irrigation system owned by the homeowners association of a planned community and located within the planned community's common elements as defined in G.S. 47F-1-103.

"§ 89G-4. The North Carolina Irrigation Contractors' Licensing Board.

(a) Composition and Terms. – The North Carolina Irrigation Contractors' Licensing Board is created. The Board shall consist of nine members who shall serve staggered terms. The initial Board shall be selected on or before October 1, 2008, as follows:

- (1) The Commissioner of Agriculture, upon the recommendation of the Carolinas Irrigation Association, shall appoint two irrigation contractors, one to serve a one-year term and one to serve a three-year term.
- (2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives and pursuant to recommendations from the North Carolina Green Industry Council, shall appoint two members, one who is a registered landscape contractor in good standing with the North Carolina Landscape Contractors Registration Board to serve a one-year term and one who is an irrigation contractor to serve a three-year term.
- (3) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint two irrigation contractors, one to serve a one-year term and one to serve a two-year term.
- (4) The President of The University of North Carolina System shall appoint one member from within the ranks of the land grant university

community who is knowledgeable in irrigation methods and practices to serve a three-year term. The position is open to both current employees of The University of North Carolina System and persons who have earned emeritus status with The University of North Carolina System.

- (5) The Board of Directors of the North Carolina Chapter of the American Society of Landscape Architects shall appoint one member who is a registered landscape architect to serve a two-year term.
- (6) The Governor shall appoint one public member to serve a two-year term.

Upon the expiration of the terms of the initial Board members, each member shall be appointed by the appointing authorities designated in subdivisions (1) through (6) of this subsection for a three-year term and shall serve until a successor is appointed and qualified. No member may serve more than two consecutive full terms.

(b) Qualifications. – Members of the Board shall be residents of this State. The irrigation contractor members shall meet the requirements for licensure under this Chapter and remain in good standing with the Board during their terms. The public member of the Board shall not be: (i) trained or experienced in irrigation construction or contracting; (ii) an agent or employee of a person engaged in the practice of irrigation construction or contracting; or (iii) the spouse of an individual who may not serve as a public member of the Board.

(c) Vacancies. – Any vacancy on the Board created by death, resignation, or otherwise 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 are 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 in the member's capacity as a licensed irrigation contractor shall be disqualified from participating in the official business of the Board until the charges have been resolved.

(e) Officers and Meetings. – The Board shall elect annually a chair and other officers as it deems necessary to carry out the purposes of this Chapter and shall hold meetings at least twice a year. A majority of the Board shall constitute a quorum.

(f) Compensation. – Each member of the Board may receive per diem and reimbursement for travel and subsistence as set forth in G.S. 93B-5.

(g) Assistance. – The Board shall be entitled to the services of the Attorney General in connection with the affairs of the Board or may, in its discretion, employ an attorney to assist or represent it in the enforcement of this Chapter.

"§ 89G-5. Powers and duties.

The Board shall have the following powers and duties:

- (1) To administer and enforce the provisions of this Chapter.
- (2) To adopt, amend, or repeal rules to carry out the provisions of this Chapter.
- (3) To examine and determine the qualifications and fitness of applicants for licensure and licensure renewal.
- (4) To issue, renew, deny, restrict, suspend, or revoke licenses.
- (5) To reprimand or otherwise discipline licensees under this Chapter.
- (6) To receive and investigate complaints from members of the public.

- (7) To conduct investigations to determine whether violations of this Chapter exist or constitute grounds for disciplinary action against licensees under this Chapter.
- (8) To conduct administrative hearings in accordance with Chapter 150B of the General Statutes.
- (9) To seek injunctive relief through any court of competent jurisdiction for violations of this Chapter.
- (10) To collect fees required by G.S. 89G-10 and other monies permitted by law to be paid to the Board.
- (11) To require licensees to file and maintain an adequate surety bond.
- (12) To establish and approve continuing educational requirements for persons licensed under this Chapter.
- (13) To employ a secretary-treasurer and any other clerical personnel the Board deems necessary to carry out the provisions of this Chapter and to fix compensation for employees.
- (14) To maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board actions.
- (15) To adopt and publish a code of professional conduct and practice for all persons licensed under this Chapter. The code shall establish minimum standards for water conservation in the practice of irrigation construction and contracting.
- (16) To publish a list of irrigation best management practices to be followed by licensed irrigation contractors.
- (17) To adopt a seal containing the name of the Board for use on licenses and official reports issued by the Board.

"§ 89G-6. Application; qualifications; examination; issuance.

(a) Upon application to the Board and the payment of the required fees, an applicant may be licensed under this Chapter as an irrigation contractor if the applicant submits evidence that demonstrates his or her qualifications as prescribed in rules adopted by the Board and meets all of the following qualifications:

- (1) Is at least 18 years of age.
- (2) Is of good moral character as determined by the Board.
- (3) Has at least three years of experience in irrigation construction or contracting or the educational equivalent. Two years of educational training in irrigation construction or contracting shall be the equivalent of one year of experience.
- (4) Files with the Board and maintains a corporate surety bond executed by a company authorized to do business in this State or an irrevocable letter of credit issued by an insured institution. The surety bond or the letter of credit shall be in the amount of ten thousand dollars (\$10,000). The surety bond or letter of credit shall be approved by the Board as to form and shall be conditioned upon the obligor's faithfully conforming to and abiding by the provisions of this Chapter. Any person claiming to be injured by an act of a licensed irrigation contractor that constitutes a violation of this Chapter may institute an action to recover against the licensee and the surety.

(b) If the application is satisfactory to the Board, the applicant shall be required to pass an examination administered by the Board. The Board shall establish the scope

and subject matter of the examination, and an examination shall be held at least twice a year at a time and place to be determined by the Board. The examination, at a minimum, shall test the applicant's understanding of the following:

- (1) Efficiency of water use and conservation in the practice of irrigation construction and contracting.
- (2) Proper methods of irrigation construction.
- (3) Proper methods for irrigation installation.
- (4) Basic business skills.

(c) When the Board determines that an applicant has met all the requirements for licensure, the Board shall issue a license to the applicant.

"§ 89G-7. Use of seal; posting license.

(a) Upon licensure by the Board, each irrigation contractor shall obtain a seal of the design authorized by the Board and bearing the name of the licensee, the number of the license, and the legend 'N.C. Licensed Irrigation Contractor.' An irrigation contractor may use the seal only while the license is valid.

(b) Every irrigation contractor issued a license under this Chapter shall display the license conspicuously in the contractor's place of business.

"§ 89G-8. Reciprocity.

The Board may issue a license, without examination, to any person who is an irrigation contractor licensed, certified, or registered in another state or country if the requirements for licensure, certification, or registration in the other state or country are substantially equivalent to the requirements for licensure in this State.

"§ 89G-9. License renewal and continuing education.

(a) Every license issued under this Chapter shall be renewed on or before December 31 of each year. Any person who desires to continue to practice shall apply for license renewal and shall submit the required fees. Licenses that are not renewed shall be automatically revoked. A license may be renewed at any time within one year after its expiration, if: (i) the applicant pays the required renewal fee and late renewal fee; (ii) the Board finds that the applicant has not used the license in a manner inconsistent with the provisions of this Chapter or engaged in the practice of irrigation construction or contracting after notice of revocation; and (iii) the applicant is otherwise eligible for licensure under the provisions of this Chapter. When necessary, the Board may require a licensee to demonstrate continued competence as a condition of license renewal.

(b) As a condition of license renewal, a licensee shall meet continuing education requirements set by the Board. Each licensee shall complete 10 continuing education units per year. Failure to obtain continuing education units shall result in the forfeiture of a license. Upon forfeiture, a person shall be required to submit a new application and retake the examination as provided in this Chapter.

"§ 89G-10. Expenses and fees.

(a) The Board may impose the following fees not to exceed the amounts listed below:

<u>(1)</u>	<u>Application fee</u>	<u>\$100.00</u>
<u>(2)</u>	<u>Examination fee</u>	<u>200.00</u>
<u>(3)</u>	<u>License renewal</u>	<u>100.00</u>
<u>(4)</u>	<u>Late renewal fee</u>	<u>50.00</u>
<u>(5)</u>	<u>License by reciprocity</u>	<u>250.00</u>
<u>(6)</u>	<u>Corporate license</u>	<u>100.00</u>
<u>(7)</u>	<u>Duplicate license</u>	<u>25.00.</u>

(b) When the Board uses a testing service for the preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services.

"§ 89G-11. Disciplinary action.

The Board may deny, restrict, suspend, or revoke a license or refuse to issue or renew a license if a licensee or applicant:

- (1) Employs the use of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.
- (2) Practices or attempts to practice irrigation construction or contracting by fraudulent misrepresentation.
- (3) Commits an act of gross malpractice or incompetence as determined by the Board.
- (4) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice as an irrigation contractor or that indicates that the person has deceived or defrauded the public.
- (5) Has been declared incompetent by a court of competent jurisdiction.
- (6) Has willfully violated any provision in this Chapter or any rules adopted by the Board.
- (7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.
- (8) Fails to file the required surety bond or letter of credit or to keep the bond or letter of credit in force.

"§ 89G-12. Civil penalties.

(a) In addition to taking any of the actions permitted under G.S. 89G-11, the Board may assess a civil penalty not in excess of two thousand dollars (\$2,000) for each 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) Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, take into consideration 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 violation 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.

"§ 89G-13. Injunction to prevent violation; notification of complaints.

(a) If the Board finds that a person who does not have a license issued under this Chapter is engaging in the practice of irrigation construction or contracting, the Board may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or rules adopted by the Board.

(b) A licensed irrigation contractor shall notify the Board by registered mail of any complaints filed against the contractor within 30 days from the date the complaint was filed."

SECTION 2. Any person who has obtained Certified Irrigation Contractor (CIC) or Certified Irrigation Designer (CID) status through The Irrigation Association may be issued an irrigation contractor's license under Chapter 89G of the General Statutes, as enacted by Section 1 of this act, without the requirement of examination after successfully applying for and meeting all other requirements and qualifications for licensure, provided the person submits a valid application for licensure to the Board within 180 days of the date this act becomes effective.

SECTION 3. Any person who is a registered landscape contractor under Chapter 89D of the General Statutes or a licensed plumbing contractor under Article 2 of Chapter 87 of the General Statutes on the date this act becomes effective may be issued an irrigation contractor's license under Chapter 89G of the General Statutes, as enacted by Section 1 of this act, without the requirement of examination after successfully applying for and meeting all other requirements and qualifications for licensure, provided the person submits a valid application for licensure to the Board within 180 days of the date this act becomes effective.

SECTION 4. Any person who can document 10 years in business as an irrigation contractor as of the date this act becomes effective, can document competency in the practice of irrigation contracting, as determined by the Board, and meets all other requirements and qualifications for licensure may be issued an irrigation contractor's license under Chapter 89G of the General Statutes, as enacted by Section 1 of this act, without the requirement of examination, provided that the person submits an application for licensure to the Board within 180 days of the date this act becomes effective.

SECTION 5. The Board must annually review the fees set out in G.S. 89G-10 of this act to determine whether these fees reflect the actual cost of administering this act and seek legislative changes to the fees if necessary.

SECTION 6.(a) G.S. 93E-1-5(a) reads as rewritten:

"(a) There is created the North Carolina Appraisal Board for the purposes set forth in this Chapter. The Board shall consist of ~~seven~~nine members. The Governor shall appoint five members of the Board, and the General Assembly shall appoint ~~two~~four members in accordance with G.S. 120-121, ~~one~~two upon the recommendation of the President Pro Tempore of the Senate and ~~one~~two upon the recommendation of the Speaker of the House of Representatives. Members appointed by the Governor shall be appointed from geographically diverse areas of the State. The ~~appointee~~appointees recommended by the Speaker of the House of Representatives and the appointees of the Governor shall be persons who have been engaged in the business of real estate appraising in this State for at least five years immediately preceding their appointment and are also State-licensed or State-certified real estate appraisers. No more than three of the appointees may be members of the same appraiser trade organization at any one time. The ~~appointee~~appointees recommended by the President Pro Tempore of the Senate shall be a person not involved directly or indirectly in the real estate, real estate appraisal, or the real estate lending industry. Members of the Board shall serve three-year terms, so staggered that the terms of three members expire in one year, the terms of ~~two~~three members expire in the next year, and the terms of ~~two~~three members expire in the third year of each three-year period. The members of the Board shall elect one of their members to serve as chairman of the Board for a term of one year. The Governor may remove any member of the Board appointed by the Governor for misconduct, incompetency, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. Successors shall be appointed by the appointing authority making the original appointment. All vacancies occurring on the

Board 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. Initial terms of office commenced July 1, 1994."

SECTION 6.(b) The initial term of the additional members appointed by the General Assembly under G.S. 93E-1-5(a), as amended by this act, will commence for the terms beginning July 1, 2008. To continue the staggered terms as required under G.S. 93E-1-5, the initial appointment of the additional member appointed by the President Pro Tempore of the Senate shall serve a one-year term and the initial appointment of the additional member appointed by the Speaker of the House of Representatives shall serve a three-year term.

SECTION 7. G.S. 89G-4, as enacted in Section 1 of this act, becomes effective October 1, 2008. Section 6 of this act is effective when it becomes law. The remainder of this act becomes effective January 1, 2009, and the exemption provided in G.S. 89G-3(16) applies to irrigation systems installed on or before that date.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 3:00 p.m. on the 4th day of August, 2008.

Session Law 2008-178

H.B. 2341

AN ACT TO LIMIT LIABILITY FOR THE ACTS OF CERTIFIED CHILD PASSENGER SAFETY TECHNICIANS AND SPONSORING ORGANIZATIONS OF CHILD SAFETY SEAT EDUCATIONAL AND CHECKING PROGRAMS WHEN TECHNICIANS AND SPONSORING ORGANIZATIONS ARE ACTING IN GOOD FAITH AND CHILD SAFETY SEAT INSPECTIONS, INSTALLATION, ADJUSTMENT, OR EDUCATION PROGRAMS ARE PROVIDED WITHOUT FEE OR CHARGE, AS RECOMMENDED BY THE CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-137.5. Child passenger safety technician; limitation of liability.

(a) The following definitions apply in this section:

- (1) Certified child passenger safety technician. – A certified child passenger safety technician is an individual who has successfully completed the U.S. Department of Transportation National Highway Traffic Safety Administration's (NHTSA) National Standardized Child Passenger Safety Certification Training Program and who maintains a current child passenger safety technician or technician instructor certification through the current certifying body for the National Child Passenger Safety Training Program as designated by the National Highway Traffic Safety Administration.
- (2) Sponsoring organization. – A sponsoring organization is a person or organization other than a manufacturer of or employee or agent of a manufacturer of child safety seats that:

- a. Offers or arranges for the public a nonprofit child safety seat educational program, checkup event, or checking station program utilizing certified child passenger safety technicians; or
- b. Owns property upon which a nonprofit child safety seat educational program, checkup event, or checking station program for the public occurs utilizing certified child passenger safety technicians.

(b) Limitation of Liability. – Except as provided in subsection (c) of this section, a certified child passenger safety technician or sponsoring organization shall not be liable to any person as a result of any act or omission that occurs solely in the inspection, installation, or adjustment of a child safety seat or in providing education regarding the installation or adjustment of a child safety seat if:

- (1) The service is provided without fee or charge other than reimbursement for expenses, and
- (2) The child passenger safety technician or sponsoring organization acts in good faith and within the scope of training for which the technician is currently certified.

(c) Exceptions. – The limitation on liability shall not apply under any of the following conditions:

- (1) The act or omission of the certified child passenger safety technician or sponsoring organization constitutes willful or wanton misconduct or gross negligence.
- (2) The inspection, installation, or adjustment of a child safety seat or education provided regarding the installation or adjustment of a child safety seat is in conjunction with the for-profit sale of a child safety seat."

SECTION 2. This act becomes effective October 1, 2008, and applies to any cause of action arising on or after that date.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 3:02 p.m. on the 4th day of August, 2008.

Session Law 2008-179

H.B. 2338

AN ACT TO REQUIRE HOSPITALS AND PHYSICIANS TO REPORT SERIOUS, NON-ACCIDENTAL TRAUMA INJURIES IN CHILDREN TO LAW ENFORCEMENT OFFICIALS, AS RECOMMENDED BY THE CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-21.20 reads as rewritten:

"Article 1C.

"Physicians and Hospital Reports.

"§ 90-21.20. **Reporting by physicians and hospitals of wounds, injuries and illnesses.**

(a) Such cases of wounds, injuries or illnesses as are enumerated in subsection (b) shall be reported as soon as it becomes practicable before, during or after completion of treatment of a person suffering such wounds, injuries, or illnesses. If such case is

treated in a hospital, sanitarium or other medical institution or facility, such report shall be made by the Director, Administrator, or other person designated by the Director or Administrator, or if such case is treated elsewhere, such report shall be made by the physician or surgeon treating the case, to the chief of police or the police authorities of the city or town of this State in which the hospital or other institution, or place of treatment is located. If such hospital or other institution or place of treatment is located outside the corporate limits of a city or town, then the report shall be made by the proper person in the manner set forth above to the sheriff of the respective county or to one of his deputies.

(b) Cases of wounds, injuries or illnesses which shall be reported by physicians, and hospitals include every case of a bullet wound, gunshot wound, powder burn or any other injury arising from or caused by, or appearing to arise from or be caused by, the discharge of a gun or firearm, every case of illness apparently caused by poisoning, every case of a wound or injury caused, or apparently caused, by a knife or sharp or pointed instrument if it appears to the physician or surgeon treating the case that a criminal act was involved, and every case of a wound, injury or illness in which there is grave bodily harm or grave illness if it appears to the physician or surgeon treating the case that the wound, injury or illness resulted from a criminal act of violence.

(c) Each report made pursuant to subsections (a) and (b) above shall state the name of the wounded, ill or injured person, if known, and the age, sex, race, residence or present location, if known, and the character and extent of his injuries.

(c1) In addition to the reporting requirements of subsection (b) of this section, cases involving recurrent illness or serious physical injury to any child under the age of 18 years where the illness or injury appears, in the physician's professional judgment, to be the result of non-accidental trauma shall be reported by the physician as soon as it becomes practicable before, during, or after completion of treatment. If the case is treated in a hospital, sanitarium, or other medical institution or facility, the report shall be made by the Director, Administrator, or other person designated by the Director or Administrator of the medical institution or facility, or if the case is treated elsewhere, the report shall be made by the physician or surgeon treating the case to the chief of police or the police authorities of the city or town in this State in which the hospital or other institution or place of treatment is located. If the hospital or other institution or place of treatment is located outside the corporate limits of a city or town, then the report shall be made by the proper person in the manner set forth above to the sheriff of the respective county or to one of the sheriff's deputies. This reporting requirement is in addition to the duty set forth in G.S. 7B-301 to report child abuse, neglect, dependence, or the death of any juvenile as the result of maltreatment to the director of the department of social services in the county where the juvenile resides or is found.

(d) Any hospital, sanitarium, or other like institution or Director, Administrator, or other designated person, or physician or surgeon participating in good faith in the making of a report pursuant to this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the making of such report."

SECTION 2. This act becomes effective December 1, 2008.

In the General Assembly read three times and ratified this the 9th day of July, 2008.

Became law upon approval of the Governor at 3:05 p.m. on the 4th day of August, 2008.

Session Law 2008-180

H.B. 2314

AN ACT TO MAKE CHANGES TO THE STATUTES GOVERNING VOLUNTARY LOCAL GOVERNMENT FINANCIAL PARTICIPATION IN DEPARTMENT OF TRANSPORTATION PROJECTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE, AND TO EXPAND THE AUTHORITY OF THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO LOCATE AND ACQUIRE RIGHT-OF-WAY FOR THE LOCATION, ABOVE OR BELOW GROUND, OF FIBER-OPTIC CABLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-350(f1) reads as rewritten:

"(f1) ~~Municipal~~Local Government Participation. – The ability of a ~~municipality~~ local government to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4)."

SECTION 2. G.S. 136-18(27) reads as rewritten:

"(27) The Department of Transportation is authorized to establish policies and promulgate rules providing for voluntary local government, property owner or highway user participation in the costs of maintenance or improvement of roads which would not otherwise be necessary or would not otherwise be performed by the Department of Transportation and which will result in a benefit to the property owner or highway user. By way of illustration and not as a limitation, such costs include those incurred in connection with drainage improvements or maintenance, driveway connections, dust control on unpaved roads, surfacing or paving of roads and the acquisition of rights-of-way. ~~Property~~Local government, property owner and highway user participation can be in the form of materials, money, or land (for right-of-way) as deemed appropriate by the Department of Transportation. The authority of this section shall not be used to authorize, construct or maintain toll roads or bridges."

SECTION 3. G.S. 136-44.50 reads as rewritten:

"§ 136-44.50. **Transportation corridor official map act.**

(a) A transportation corridor official map may be adopted or amended by any of the following:

- (1) The governing board of any ~~city~~local government for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to G.S. 136-66.2 or for any proposed public transportation corridor included in the adopted long-range transportation plan.
- (2) The Board of Transportation for any portion of the existing or proposed State highway system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.
- (3) Regional public transportation authorities created pursuant to Article 26 of Chapter 160A of the General Statutes or regional transportation authorities created pursuant to Article 27 of Chapter 160A of the

General Statutes for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.

- (4) The North Carolina Turnpike Authority for any project being studied pursuant to G.S. 136-89.183.
- (5) The Wilmington Urban Area Metropolitan Planning Organization for any project that is within its urbanized boundary and identified in G.S. 136-179.

Before a city adopts a transportation corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, or adopts an amendment to a transportation corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city shall obtain approval from the Board of County Commissioners.

(a1) No transportation corridor official map shall be adopted or amended, nor may any property be regulated under this Article until:

- (1) The governing board of the city, the county, the regional transportation authority, the North Carolina Turnpike Authority, or the Department of Transportation has held a public hearing in each county affected by the map on the proposed map or amendment. Notice of the hearing shall be provided:
 - a. By publication at least once a week for four successive weeks prior to the hearing in a newspaper having general circulation in the county in which the transportation corridor to be designated is located.
 - b. By two week written notice to the Secretary of Transportation, the Chairman of the Board of County Commissioners, and the Mayor of any city or town through whose corporate or extraterritorial jurisdiction the transportation corridor passes.
 - c. By posting copies of the proposed transportation corridor map or amendment at the courthouse door for at least 21 days prior to the hearing date. The notice required in sub-subdivision a. above shall make reference to this posting.
 - d. By first-class mail sent to each property owner affected by the corridor. The notice shall be sent to the address listed for the owner in the county tax records.
- (2) A permanent certified copy of the transportation corridor official map or amendment has been filed with the register of deeds. The boundaries may be defined by map or by written description, or a combination thereof. The copy shall measure approximately 20 inches by 12 inches, including no less than one and one-half inches binding space on the left-hand side.
- (3) The names of all property owners affected by the corridor have been submitted to the Register of Deeds.

(b) Transportation corridor official maps and amendments shall be distributed and maintained in the following manner:

- (1) A copy of the official map and each amendment thereto shall be filed in the office of the city clerk and in the office of the district engineer.
- (2) A copy of the official map, each amendment thereto and any variance therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the

tax supervisor of any county and tax collector of any city affected thereby. The portion of properties embraced within a transportation corridor and any variance granted shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.

- (3) Notwithstanding any other provision of law, the certified copy filed with the register of deeds shall be placed in a book maintained for that purpose and cross-indexed by number of road, street name, or other appropriate description. The register of deeds shall collect a fee of five dollars (\$5.00) for each map sheet or page recorded.
- (4) The names submitted as required under subdivision (a)(3) of this section shall be indexed in the "grantor" index by the Register of Deeds.

(c) Repealed by Session Laws 1989, c. 595, s. 1.

(d) Within one year following the establishment of a transportation corridor official map or amendment, work shall begin on an environmental impact statement or preliminary engineering. The failure to begin work on the environmental impact statement or preliminary engineering within the one-year period shall constitute an abandonment of the corridor, and the provisions of this Article shall no longer apply to properties or portions of properties embraced within the transportation corridor. A city local government may prepare environmental impact studies and preliminary engineering work in connection with the establishment of a transportation corridor official map or amendments to a transportation corridor official map. When a city or county prepares a transportation corridor official map for a street or highway that has been designated a State responsibility pursuant to G.S. 136-66.2, the environmental impact study and preliminary engineering work shall be reviewed and approved by the Department of Transportation. An amendment to a corridor shall not extend the one-year period provided by this section unless it establishes a substantially different corridor in a primarily new location.

(e) The term "amendment" for purposes of this section includes any change to a transportation corridor official map, including:

- (1) Failure of the Department of Transportation, the North Carolina Turnpike Authority, a city, a county, or a regional transportation authority to begin work on an environmental impact statement or preliminary engineering as required by this section; or
- (2) Deletion of the corridor from the transportation corridor official map by action of the Board of Transportation, the North Carolina Turnpike Authority, or deletion of the corridor from the long-range transportation plan of a ~~city~~ city, county, or regional transportation authority by action of the ~~city~~ city, county, or regional transportation authority governing Board.

(f) The term "transportation corridor" as used in this Article does not include bikeways or greenways."

SECTION 4. G.S. 136-44.52 reads as rewritten:

"§ 136-44.52. Variance from transportation corridor official map.

(a) The Department of Transportation, the regional public transportation authority, the regional transportation authority, or the ~~city~~ local government which initiated the transportation corridor official map shall establish procedures for considering petitions for variance from the requirements of G.S. 136-44.51.

(b) The procedure established by the State shall provide for written notice to the Mayor and Chairman of the Board of County Commissioners of any affected city or county, and for the hearing to be held in the county where the affected property is located.

(c) ~~Cities~~ Local governments may provide for petitions for variances to be heard by the board of adjustment or other boards or commissions which can hear variances authorized by G.S. 160A-388. The procedures for boards of adjustment shall be followed except that no vote greater than a majority shall be required to grant a variance.

(c1) The procedure established by a regional public transportation authority or a regional transportation authority pursuant to subsection (a) of this section shall provide for a hearing de novo by the Department of Transportation for any petition for variance which is denied by the regional public transportation authority or the regional transportation authority. All hearings held by the Department of Transportation under this subsection shall be conducted in accordance with procedures established by the Department of Transportation pursuant to subsection (a) of this section.

(d) A variance may be granted upon a showing that:

- (1) Even with the tax benefits authorized by this Article, no reasonable return may be earned from the land; and
- (2) The requirements of G.S. 136-44.51 result in practical difficulties or unnecessary hardships."

SECTION 5. G.S. 136-44.53 reads as rewritten:

"§ **136-44.53. Advance acquisition of right-of-way within the transportation corridor.**

(a) After a transportation corridor official map is filed with the register of deeds, a property owner has the right of petition to the filer of the map for acquisition of the property due to an imposed hardship. The Department of Transportation, the regional public transportation authority, the regional transportation authority, or the ~~city~~ local government that initiated the transportation corridor official map may make advanced acquisition of specific parcels of property when that acquisition is determined by the respective governing board to be in the best public interest to protect the transportation corridor from development or when the transportation corridor official map creates an undue hardship on the affected property owner. The procedure established by a regional public transportation authority or a regional transportation authority pursuant to subsection (b) of this section shall provide for a hearing de novo by the Department of Transportation for any request for advance acquisition due to hardship that is denied by an authority. All hearings held by the Department under this subsection shall be conducted in accordance with procedures established by the Department pursuant to subsection (b) of this section. Any decision of the Department pursuant to this subsection shall be final and binding. Any property determined eligible for hardship acquisition shall be acquired within three years of the finding or the restrictions of the map shall be removed from the property.

(b) Prior to making any advanced acquisition of right-of-way under the authority of this Article, the Board of Transportation or the respective governing board which initiated the transportation corridor official map shall develop and adopt appropriate policies and procedures to govern the advanced acquisition of right-of-way and to assure that the advanced acquisition is in the best overall public interest.

(c) When a ~~city~~ local government makes an advanced right-of-way acquisition of property within a transportation corridor official map for a street or highway that has

been determined to be a State responsibility pursuant to the provisions of G.S. 136-66.2, the Department of Transportation shall reimburse the ~~city~~local government for the cost of any advanced right-of-way acquisition at the time the street or highway is constructed. The Department of Transportation shall have no responsibility to reimburse a municipality for any advanced right-of-way acquisition for a street or highway that has not been designated a State responsibility pursuant to the provisions of G.S. 136-66.2 prior to the initiation of the advanced acquisition by the city. The ~~city~~local government shall obtain the concurrence of the Department of Transportation in all instances of advanced acquisition.

(d) In exercising the authority granted by this section, a ~~municipality~~local government is authorized to expend ~~municipal~~its funds for the protection of rights-of-way shown on a duly adopted transportation corridor official map whether the right-of-way to be acquired is located inside or outside ~~the~~a municipal corporate limits."

SECTION 6. G.S. 136-66.3 reads as rewritten:

"§ **136-66.3. Municipal-Local government participation in improvements to the State highway system.**

(a) **Municipal Participation Authorized.** – A municipality may, but is not required to, participate in the right-of-way and construction cost of a State highway improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) **Process for Initiating Participation.** – A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) **Type of Participation Authorized.** – A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that purpose. All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of Transportation.

(c1) **No TIP Disadvantage for Participation.** – If a county or municipality participates in a State highway system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the ~~municipality's~~local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~G.S. 143B-350(f)(4) and located outside the municipality.~~

(c2) **Distribution of State Funds Made Available by County or Municipal Participation.** – Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

(c3) **Limitation on Agreements.** – The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) Authorization to Participate in Development-Related Improvements. – When in the review and approval by a ~~municipality-local government~~ of plans for the development of property abutting the State highway system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the ~~municipality-local government~~ is authorized to construct, or have constructed, said improvements to the State highway system in vicinity of the development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All improvements to the State highway system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) Authorization to Participate in Project Additions. – Pursuant to an agreement with the Department of Transportation, a county or municipality may reimburse the Department of Transportation for the cost of all improvements, including additional right-of-way, for a street or highway improvement projects approved by the Board of Transportation under G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project.

(e1) Reimbursement Procedure. – Upon request of the county or municipality, the Department of Transportation shall allow the ~~municipality-local government~~ a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a ~~municipality-local government~~ any interest during the initial three years.

(f) Report to General Assembly. – The Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between counties, municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) ~~Municipal-Local Government~~ Acquisition of Rights-of-Way. – In the acquisition of rights-of-way for any State highway system street or ~~highway in or around a municipality~~, highway, the county or municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, counties and municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "county," "municipality" or ~~municipal-local~~ governing body, and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "county or municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the county or municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) Department Authority Concerning Rights-of-Way. – In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of

acquiring rights-of-way where the proposed project is deemed important to a coordinated State highway system.

(i) ~~Changes to Municipal-Local Government Participation Agreement.~~ – Either the ~~municipality-local government~~ or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) ~~Municipality-Local Governments Party to Rights-of-Way Proceeding.~~ – Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) ~~Specified County Participation.~~ – ~~In addition to the authority given to Burke, Cabarrus, and Mecklenburg Counties by Chapter 478 of the 1993 Session Laws, these counties are authorized to participate in State highway improvement projects located anywhere in each respective county in accordance with this section."~~

SECTION 7. G.S. 136-98 reads as rewritten:

"§ 136-98. **Counties authorized to participate in costs of road construction and maintenance.** ~~maintenance, participation is voluntary.~~

(a) Repealed by Session Laws 2007-428, s. 4, effective August 23, 2007.

(b) Nothing in this Article prohibits counties from establishing service districts for road maintenance under Part 1, Article 16 of Chapter 153A of the General Statutes.

(c) A county is authorized to participate in the cost of rights-of-way, construction, reconstruction, improvement, or maintenance of a road on the State highway system under agreement with the Department of Transportation. County participation in improvements to the State highway system is voluntary. The Department shall not transfer any of its responsibilities to counties without specific statutory authority."

SECTION 8. G.S. 136-18(2) reads as rewritten:

"§ 136-18. **Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

- (2) To take over and assume exclusive control for the benefit of the State of any existing county or township roads, and to locate and acquire rights-of-way for any new roads that may be necessary for a State highway system, and subject to the provisions of G.S. 136-19.5(a) and (b) also locate and acquire such additional rights-of-way as may be necessary for the present or future relocation or initial location, above or below ground, of telephone, telegraph, broadband communications, electric and other lines, as well as gas, water, sewerage, oil and other pipelines, to be operated by public utilities as defined in G.S. 62-3(23) and which are regulated under Chapter 62 of the General Statutes, or by municipalities, counties, any entity created by one or more political subdivisions for the purpose of supplying any such utility services, electric membership corporations, telephone membership corporations, or any combination thereof, with full power to widen, relocate, change or alter the grade or location thereof and to change or relocate any existing roads that the Department of Transportation may now own or may acquire; to acquire by gift, purchase, or otherwise, any road or highway, or tract of land or other property whatsoever that may be

necessary for a State highway system and adjacent utility rights-of-way: Provided, all changes or alterations authorized by this subdivision shall be subject to the provisions of G.S. 136-54 to 136-63, to the extent that said sections are applicable: Provided, that nothing in this Chapter shall be construed to authorize or permit the Department of Transportation to allow or pay anything to any county, township, city or town, or to any board of commissioners or governing body thereof, for any existing road or part of any road heretofore constructed by any such county, township, city or town, unless a contract has already been entered into with the Department of Transportation...."

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

In the General Assembly read three times and ratified this the 16th day of July, 2008.

Became law upon approval of the Governor at 3:07 p.m. on the 4th day of August, 2008.

Session Law 2008-181

H.B. 2431

AN ACT TO PROVIDE FOR STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, STATUTORY OVERSIGHT COMMITTEES AND COMMISSIONS, AND OTHER AGENCIES, COMMITTEES, AND COMMISSIONS.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known as "The Studies Act of 2008."

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 are listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 2007 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) Criminal Law Issues:
 - a. Prohibit Execution/Severe Mental Disability (H.B. 553 – Insko, Harrison)
 - b. Felony Murder Rule (H.B. 787 – Earle, Harrison)
 - c. Report Denial of Some Pistol Permits (H.B. 1287 – Sutton, Jeffus, Harrison)
- (2) Other:
 - a. Energy-Efficient State Motor Vehicle Fleet (H.B. 2720 – Thomas, Harrison, Martin)
 - b. Permit/Motor Coach Companies (S.B. 285 – Swindell)
 - c. State Agency Related 501(c)(3) Corporations (McComas)

- d. Educational Assistance For Minimum Wage Workers (H.B. 1550 – Blackwood, Wilkins, Johnson, Pierce)
- e. Increase Small Brewery Limits (H.B. 1630 – Harrison, Fisher, Jones, Crawford)
- f. Television Access to State Government (H.B. 2647 – Goodwin)

SECTION 2.2. Mandatory Boating Safety Education (H.B. 2139 – Wray, Alexander, Underhill) – The Commission may study the feasibility of implementing mandatory boating education in this State. In conducting its study, the Commission shall evaluate the feasibility of requiring all persons to satisfy boating education requirements prior to operating a motorboat or personal watercraft.

SECTION 2.3. Capital Murder Statute (H.B. 1526 – Bryant, Hall, Luebke, Harrison) – The Commission may study issues related to streamlining and making more cost effective the determination of whether a first degree murder case may be tried as a capital case.

SECTION 2.4. Homeowners Associations (H.B. 1695 – Ray, Weiss) – The Commission may study issues related to the protection and participation of homeowners in the governance of their homeowner associations, particularly as to assessments and record keeping of the associations.

SECTION 2.5. Youthful Offender Expunction (H.B. 898 – Bordsen) – The Commission may study issues related to expunction of youthful offenders' criminal records, and allowing the Criminal Justice Education and Training Standards Commission and the Sheriffs' Education and Training Standards Commission access to the records of expunction.

SECTION 2.6. Improvements in Consumer Credit Reporting Practices (S.B. 1714 – Clodfelter) – The Commission may study improvements in consumer credit reporting practices, including the means to provide that credit histories reported by businesses and other credit reporting entities that have fewer than 500 customers or accounts are included as part of customers' consumer credit reports or credit histories. In its study, the Commission may consider all of the following:

- (1) The reasons businesses and other credit reporting entities that have fewer than 500 customers or accounts are not currently included as part of customers' consumer credit reports or credit histories.
- (2) The consequences of businesses and other credit reporting entities that have fewer than 500 customers or accounts not being included as part of customers' consumer credit reports or credit histories.
- (3) The number of consumers that would benefit from the reporting of additional payment information and whether they fall into any demographic groups.
- (4) The desirability and feasibility of including every business as part of its customers' consumer credit reports.
- (5) The estimated cost of including every business as part of its customers' consumer credit reports and how to pay for the cost, if any.
- (6) Any other issues the Commission considers relevant to this topic.

SECTION 2.7. Standards Applied in Disputed Child Custody Cases (S.B. 1880 – Clodfelter) – The Commission may study the standards applied in disputed child custody cases and the need for any modification of existing standards, including the possible adoption of a presumptive joint custody standard in some or all disputed child custody cases.

SECTION 2.8. Expiration of Concealed Handgun Permits (Boseman) – The Commission may study timing issues involved in renewing a concealed handgun permit, including whether there should be a time limit for sheriffs to review renewal applications so that permits do not expire before the review process is complete.

SECTION 2.9. Motorsports/Economic Impact (Purcell) – The Commission may study the economic impact of motorsports, including drag, motorcycle, and automotive racing, in North Carolina, with particular emphasis on Rockingham County.

SECTION 2.10. Self-Propelled Dredge – The Commission may study the feasibility and cost of constructing a self-propelled, submerged dredge, capable of being launched from shore and controlled remotely, to be used for purposes of removing material that interferes with navigation and for beach nourishment.

SECTION 2.11. Certificate of Need Process and its Impact on the Availability of Local Health Care Services (H.B. 2598 – Howard) – The Commission may study the law and process for issuing a Certificate of Need (CON) for new construction and expansion or renovation of existing health care facilities. In conducting the study, the Commission may consider the following:

- (1) The impact on rural or underserved communities of the denial of a CON to construct or expand existing health care facilities.
- (2) The legal requirements governing Department of Health and Human Services determinations on applications for CON.
- (3) Recent CON determinations made by the Department of Health and Human Services and the particular bases for the determinations.
- (4) Whether past CON determinations have adversely affected rural or underserved areas with respect to health care access by community residents.
- (5) What modifications can be made to the legal requirements governing CON determinations to mitigate the hardships to residents and health care facilities resulting from CON application denials or limitations.

SECTION 2.12. Impact of Smoking Prohibitions in Foster Care Homes (Purcell) – The Commission may study whether smoking prohibitions that apply to foster care homes are having an impact on the availability of foster care homes. In conducting the study, the Commission shall consider whether smoking bans are a sensible approach to protecting the health of foster care children or whether smoking bans may cause a reduction in the number of available foster care homes.

SECTION 2.13. For each Legislative Research Commission committee created during the 2007-2009 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

SECTION 2.14. 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 2009 Regular Session of the General Assembly upon its convening.

SECTION 2.15. 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 HEALTH CARE OVERSIGHT COMMITTEE STUDIES

SECTION 3.1. 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 2009 Regular Session of the General Assembly upon its convening.

SECTION 3.2. DNR Orders (Kinnaird) – The Committee may study "Do Not Resuscitate" (DNR) orders issued by an attending physician in the absence of a declaration for natural death.

SECTION 3.3. Regulation of Dental Laboratories – The Committee may study issues concerning the safety of dental restorations and the regulation of dental laboratories. In conducting the study, the Committee shall consider the advisability of requiring (i) at least one certified dental technician in each dental laboratory, (ii) all dental laboratories to register with the State, and (iii) written documentation of all materials included in a final restoration and the point of origin where the restoration was manufactured. The Committee may also consider the model legislation proposed by the National Association of Dental Laboratories in its deliberations.

SECTION 3.4. Electronic Health Information Management (S.B. 1802 – Malone) – The Committee may study the development of a coordinated statewide electronic health information network to facilitate the integration of health information technology into health care systems and support the timely, accurate, and secure exchange of health information. Coordinated health information management must be accomplished in consultation with representatives from potential participants, including public, private, and teaching hospitals; rural clinics; community health centers; free clinics; the Department of Health and Human Services; and health care providers' professional organizations.

SECTION 3.5. Bedding Laws – The Committee may study issues concerning bedding laws, Part 8 of Article 8 of Chapter 130A of the General Statutes, including the Bedding Law Account.

SECTION 3.6. Increase in Medical Records Copy Fees (H.B. 1361 – Wilkins, England) – The Committee may study whether after 15 years the fee initially authorized under G.S. 90-411 should be increased to more closely reflect current copying and handling costs. When considering a fee increase, the Committee shall take into account the financial impact of the fee increase on consumers and others requesting medical record copies.

PART IV. JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDIES

SECTION 4.1. 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 2009 Regular Session of the General Assembly upon its convening.

SECTION 4.2. Credit Card Acceptance by Commission Contract Agents (H.B. 2312 – Cole) – The Committee may study issues related to acceptance of credit cards, charge cards, or debit cards by commission contract agents and the Division of Motor Vehicles.

SECTION 4.3. Wrecker Service Rules (H.B. 2789 – Cole) – The Committee may study issues related to wrecker service rules.

SECTION 4.4. Inland Port Compact (H.B. 2258 – Gillespie) – The Committee may study whether North Carolina should enter into a compact with the

states of South Carolina and Tennessee, and the Commonwealth of Virginia, to coordinate efforts to establish an Inland Port, and any other issue related to inland ports.

PART V. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE STUDIES

SECTION 5.1. 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 2009 Regular Session of the General Assembly upon its convening.

SECTION 5.2. Dismissal, Demotion, or Suspension Without Pay of Noncertified School Employees (H.B. 1827 – Harrison, Jeffus, Womble) – The Committee may study the legal and policy issues regarding the dismissal, demotion, or suspension without pay of noncertified school employees and their current employment status as at-will employees. The Committee may consider whether noncertified employees should only be dismissed, demoted, or suspended without pay for just cause.

SECTION 5.3. Feasibility of Tuition Forgiveness and Other Incentives to Increase the Number of Social Workers in Community Mental Health in Underserved Counties in North Carolina (H.B. 2203 – Insko, Love, Glazier) – The Committee may study the feasibility of tuition forgiveness and other incentives to increase the number of social workers in community mental health in underserved counties in North Carolina. In conducting the study, the Committee may assess the feasibility of a Community Mental Health Scholars Tuition Forgiveness Program (Program) for the purpose of expanding the number of professional master's level social workers in community mental health to serve underserved counties. The Committee's study may also include (i) identifying policy or system barriers to the creation of a tuition forgiveness program or to hiring of graduates in underserved counties; (ii) recommending a structure for a tuition forgiveness program if such a program is found feasible; and (iii) recommending other possible incentives to increase the number of MSW social workers providing community mental health services.

SECTION 5.4. Impacts of Raising the Compulsory Attendance Age for Public School Attendance from Sixteen to Seventeen or Eighteen (H.B. 2289 – Parmon, Bryant, Fisher, Tarleton) – The Committee, in coordination with the Department of Public Instruction, may study the impacts of raising the compulsory public school attendance age from 16 to 17 or 18. In its study, the Committee shall consider all of the following:

- (1) Impacts, including fiscal impacts, that raising the compulsory school attendance age has had in states that have raised the compulsory school attendance age in the last 15 years.
- (2) Conclusions that can be drawn as to the impact the compulsory school attendance age has made in the dropout and high school completion rates for states who require compulsory school attendance to ages 16, 17, and 18, respectively.
- (3) Best practices for working with at-risk populations of students who remain in school that have been employed in states that have raised the compulsory attendance age in the last 15 years.
- (4) The fiscal impact of raising the compulsory school attendance age from 16 to 17 and 16 to 18, respectively, for each local administrative school unit in North Carolina.

PART VI. ENVIRONMENTAL REVIEW COMMISSION STUDIES

SECTION 6.1. The Environmental Review Commission may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2009 Regular Session of the General Assembly upon its convening.

SECTION 6.2. Costs and Benefits of the Adoption of California Motor Vehicle Emissions Standards in North Carolina (S.B. 1871 – Clodfelter; H.B. 2526 – Harrison, Martin, Samuelson, Thomas) – The Commission, in consultation with the Division of Air Quality of the Department of Environment and Natural Resources, may study the costs and benefits of the adoption of the California motor vehicle emissions standards in this State. The Commission shall determine:

- (1) The projected emissions of carbon dioxide for each year through the year 2020 from motor vehicles in North Carolina if the California motor vehicle emissions standards were adopted in North Carolina, as compared to emissions of carbon dioxide projected for the same period from motor vehicles in North Carolina if the California motor vehicle emissions standards are not adopted. In making the comparison, the Commission shall factor in any reduction of emissions of carbon dioxide in North Carolina that are projected to result from the implementation of the federal emissions standards and the federal fuel efficiency standards.
- (2) The projected increase in costs to North Carolina sellers and purchasers of new vehicles if the California motor vehicle emissions standards were adopted in North Carolina.
- (3) The projected reduction in quantity and cost of fuel to North Carolina consumers if the California motor vehicle emissions standards were adopted in North Carolina as compared to the quantity and cost of fuel if the California motor vehicle emissions standards are not adopted. In making the comparison, the Commission shall determine quantity and cost of fuel during the first five years of the useful life of the vehicle and over the projected useful life of the vehicle.

For purposes of this study, the following definitions apply:

- (1) "California motor vehicle emissions standards" means the functional equivalent, if implemented in this State, of the low-emission vehicle program established under the laws of the State of California as set forth in final regulations issued by the California Air Resources Board pursuant to Title 13 of the California Code of Regulations and promulgated under the authority of Division 26 of the California Health and Safety Code.
- (2) "Federal emissions standards" means the regulations as set forth in Parts 85 and 86 of Title 40 of the Code of Federal Regulations (July 1, 2007 Edition).
- (3) "Federal fuel efficiency standards" means the corporate average fuel economy (CAFE) standards, as set forth in Chapter V of Title 49 of the Code of Federal Regulations (October 1, 2007 Edition).

In conducting this study, the Commission may employ independent consultants as provided by G.S. 120-32.02 and G.S. 120-70.44. The Commission may also convene an advisory committee of interested parties to assist in the design and implementation of the study.

SECTION 6.3. Stormwater Permitting – The Commission may study the feasibility of implementing a stormwater management program under G.S. 143-214.7 without requiring the issuance of a State permit prior to construction. The study shall consider the potential for accepting an engineering certification that the stormwater management system complies with stormwater requirements set out in statute or in the rules of the Environmental Management Commission in place of a permit review by the Department of Environment and Natural Resources. The study shall address issues related to enforcement of stormwater requirements; the impact on stormwater programs delegated to and implemented by units of local government; consistency with federal requirements under the Clean Water Act, including limits on non-point source runoff under a Total Maximum Daily Load for impaired waters; the ability to accurately track nutrient reductions under nutrient sensitive waters strategies; implications for other environmental review processes, included related permitting programs; potential impacts on the State's ability to protect water quality and aquatic resources. The study shall also consider the costs and benefits to the property owner or developer.

SECTION 6.4. Consolidation of Environmental Regulatory Programs – The Commission may study the desirability of abolishing existing environmental regulatory programs and replacing them with a new, full-time Environmental Management Commission modeled on the Utilities Commission in order to improve efficiency, communication, and coordination within State government in the development and implementation of environmental and natural resources policy.

SECTION 6.5. Wind Permitting (H.B. 1821 – Harrison) – The Commission may study methods for implementing a State level permitting system and siting requirements for commercial-scale wind energy systems that will ensure that wind energy systems are sited in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources. In undertaking the study, the Commission may consider procedures for environmental review of commercial-scale wind energy systems, and standards necessary to minimize impacts in the following areas: noise, visual, environmental, sensitive habitats, wildlife, public health, safety. The Commission may form a technical advisory committee to include representatives from various stakeholder groups to assist in conducting this study.

SECTION 6.6. Hazard Disclosures in Coastal Real Estate Transactions (H.B. 1628 – Harrison) – The Commission may study issues related to hazard disclosures in coastal real estate transactions.

SECTION 6.7. Date Certain for Phase-out of Hog Lagoons (H.B. 1822 – Jones, Harrison)

SECTION 6.8. Protection of Conservation Land from Eminent Domain (Harrison)

SECTION 6.9. Recycle Plastic Bags/Alternatives to Plastic Bags (H.B. 2527 – Harrison, Martin, Bryant, Justice)

SECTION 6.10. Ban on Toxic Brominated Fire Retardants (PBDEs) (Harrison) – The Commission may study, in consultation with the Child Fatality Task Force, a ban on toxic brominated fire retardants.

SECTION 6.11. Recycling Program for Fluorescent Lamps (H.B. 838 – Harrison, Fisher) – The Commission, in conjunction with the Division of Waste Management and the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources, may study the issue of a recycling program for fluorescent lamps.

PART VII. REVENUE LAWS STUDY COMMITTEE STUDIES

SECTION 7.1. The Revenue Laws Study Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2009 Regular Session of the General Assembly upon its convening.

SECTION 7.2. Franchise Tax/Effect on Construction Industry (Gibson) – The Committee may study the treatment of certain liability accounts as they relate to the computation of the franchise tax capital stock, surplus, and undivided profits base of corporations in the construction industry.

PART VIII. JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE STUDIES

SECTION 8.1. 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 2009 Regular Session of the General Assembly upon its convening.

SECTION 8.2. Expanding Access to The Department of Health and Human Services' Prescription Drug Database to Include County Sheriffs And Deputy Sheriffs (H.B. 2163 – McLawhorn; H.B. 2292 – Boylan) – The Committee may study whether, and under what circumstances, the prescription drug database maintained by the Department of Health and Human Services should be accessible to county sheriffs and deputy sheriffs.

SECTION 8.3. Inmate Access to Education, Training, and Work Release Programs (S.B. 1499 – Atwater) – The Committee may study methods for (i) increasing inmates' access to educational and vocational training opportunities at all State prison facilities and (ii) increasing the number of work release slots at minimum security prisons.

PART IX. NORTH CAROLINA STUDY COMMISSION ON AGING STUDIES

SECTION 9.1. 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 2009 Regular Session of the General Assembly upon its convening.

SECTION 9.2. State's Readiness to Respond to the Coming Wave of Older Adults (H.B. 2324 – Farmer-Butterfield, Pierce, Boylan) – The Commission may study the State's readiness to respond to increasing numbers of older adults residing in North Carolina. In conducting the study, the Commission may:

- (1) Identify information and resources to provide needs assessment, planning, and delivery of services and programs to current and future older adults.
- (2) Oversee the design and implementation of a Consumer Needs, Assets, and Expectations Assessment.
- (3) Oversee the design and implementation of a State and Local Awareness and Preparedness Assessment.
- (4) Identify and secure studies of related issues, such as retirement migration patterns, that impact the planning process for North Carolina's older adult population.

- (5) Oversee design and implementation of a process to strengthen State and local planning.

PART X. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 10.1. 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 2009 Regular Session of the General Assembly upon its convening.

SECTION 10.2. Study Certain Mental Health Commitment Statutes (H.B. 2202 – Insko) – The Committee may study the involuntary commitment statutes in Chapter 122C of the General Statutes, in particular G.S. 122C-263(a), to determine if an individual lawfully ordered to undergo an examination by a physician or eligible psychologist is being appropriately supervised to protect the health and safety of the individual and others during the period of the individual's examination.

PART XI. JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE STUDIES

SECTION 11.1. The Joint Legislative Commission on Seafood and Aquaculture may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2009 Regular Session of the General Assembly upon its convening.

SECTION 11.2. The Commission may study the feasibility of increasing the production, processing, and marketing of aquaculture products in the State. The study shall include an analysis of:

- (1) The current and potential economic impact of the aquaculture industry in the State.
- (2) The current and potential environmental impacts of the aquaculture industry in the State.
- (3) Regulatory changes that may be necessary to increase the production, processing, and marketing of aquaculture products in the State.
- (4) Programs to promote the production, processing, and marketing of aquaculture products in other states.
- (5) The desirability of establishing a State-funded shellfish hatchery.
- (6) Funding necessary to increase the production, processing, and marketing of aquaculture products in the State.

PART XII. DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY ISSUES RELATING TO HEARING LOSS IN OLDER ADULTS IN NORTH CAROLINA (S.B. 1644 – Malone; H.B. 2182 – Farmer-Butterfield, Boylan)

SECTION 12.1. The Department of Health and Human Services, Division of Services for the Deaf and Hard of Hearing, shall study the impact of hearing loss on North Carolina's older adult population. The study shall examine the following:

- (1) The availability of and access to qualified professionals for diagnosis and treatment.
- (2) The availability of and access to hearing aid purchase assistance programs for low-income individuals.
- (3) The development of an inventory of adaptive technology options available to assist older adults with hearing loss.
- (4) Resources and programs available in other states.

SECTION 12.2. The Department of Health and Human Services shall present findings and recommendations to the Study Commission on Aging on or before November 1, 2009.

PART XIII. DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY THE FEASIBILITY OF OPERATING A LICENSED ADULT CARE HOME IN A PUBLIC HOUSING FACILITY (S.B. 2011 – Swindell; H.B. 2704 – Farmer-Butterfield, Tolson, Bordsen, Boylan)

SECTION 13.1. The Department of Health and Human Services, Division of Aging and Adult Services and Division of Medical Assistance, shall study the feasibility and possible savings to the State of operating a licensed adult care home in a public housing facility. The study shall determine:

- (1) Whether this model is needed to complement the care options currently available to older adults in North Carolina.
- (2) Whether this model is allowable under current State and federal laws and rules, and if not, what changes are needed.
- (3) How State-County Special Assistance and federal public housing subsidies would work together and whether this could result in a reduced State-County Special Assistance rate for these types of entities and possible savings for the State.

SECTION 13.2. The Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and to the Study Commission on Aging, on or before August 1, 2009.

PART XIV. DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY ISSUES RELATING TO RESPITE CARE (H.B. 2398 – Farmer-Butterfield, Pierce, Boylan)

SECTION 14.1. The Department of Health and Human Services, Division of Aging and Adult Services, shall study the adequacy of service standards and funding for group respite services. The study shall include determining whether opportunities exist to streamline and enhance the provision of respite services.

SECTION 14.2. The Department of Health and Human Services, Division of Medical Assistance, shall study including respite services as part of the Medicaid State Plan.

SECTION 14.3. The Department shall report findings and recommendations to the Study Commission on Aging on or before November 1, 2009.

PART XV. STATE ETHICS COMMISSION TO STUDY IMPLEMENTATION AND EFFECTIVENESS OF THE STATE GOVERNMENT ETHICS ACT

SECTION 15.1. The State Ethics Commission shall conduct a study of the implementation and effectiveness of S.L. 2006-201, the State Government Ethics Act. The study shall examine issues related to the administration of the laws created under this act by the State Ethics Commission, the Secretary of State, the State Board of Elections, and any applicable State agency. The study shall identify the areas of the ethics and lobbying process in which public input is needed, the need for notice to the public of interpretations of the law, the effectiveness of the ethics and lobbying education process, the volume of requests for advice, the adequacy of staffing to timely meet the needs of the act, and the general perception of the community affected by the State Government Ethics Act. The State Ethics Commission shall consult with the Legislative Ethics Committee as part of this study. The study shall assess and identify proposed legislative changes in the governmental process and the law needed to promote and continue high ethical behavior by governmental officers and employees. The report shall include recommendations on changes to Chapter 138A and Chapter 120C of the General Statutes. The State Ethics Commission shall report its findings and recommendations in writing to the Legislative Ethics Committee on or before by March 1, 2009.

PART XVI. STUDY THE PARTICIPATION AND DROPOUT RATES OF STUDENTS WITH DISABILITIES IN LEARN AND EARN EARLY COLLEGE HIGH SCHOOLS, REDESIGNED HIGH SCHOOLS, THE NORTH CAROLINA VIRTUAL PUBLIC SCHOOL, AND NORTH CAROLINA PUBLIC HIGH SCHOOLS THAT HAVE BLOCK SCHEDULING (S.B. 1758 – Swindell; H.B. 2356 – Glazier, Lucas, Yongue)

SECTION 16.1. The Department of Public Instruction shall analyze the participation of students with disabilities in Learn and Earn Early College High Schools, Redesigned High Schools, the North Carolina Virtual Public School, and North Carolina public high schools that are on block schedules. In conducting its analysis, the Department shall consider enrollment, graduation, and dropout rates for students with disabilities in these different programs. The Department shall report its findings and recommendations to the Joint Legislative Education Oversight Committee by March 15, 2009.

PART XVII. RESERVED

PART XVIII. NORTH CAROLINA BUILDING CODE COUNCIL TO REEXAMINE ADOPTION OF CERTAIN SECTIONS OF THE ELECTRICAL CODE

SECTION 18.1. The North Carolina Building Code Council shall reexamine its adoptions of the following sections of the North Carolina Electrical Code to determine whether they are necessary and cost-effective: Section 210.12(B), Arc-Fault Circuit-Interrupter Protection; Section 338.10(B)(4)(a), Allowable Ampacities for SE Cables; and Section 406.11, Tamper Resistant Receptacles in Dwelling Units. The Council shall report its findings to the General Assembly on or before January 1, 2009.

PART XVIX. GENERAL STATUTES COMMISSION TO STUDY THE UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT (S.B. 1772 – Nesbitt; H.B. 2430 – Martin, Glazier)

SECTION 19.1. The General Statutes Commission shall study the Uniform Emergency Volunteer Health Practitioners Act in consultation with interested parties and report to the General Assembly on the Commission's recommendations and legislative proposals by February 1, 2009.

PART XX. NORTH CAROLINA DIVISION OF EMERGENCY MANAGEMENT, IN CONSULTATION WITH THE NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS, TO STUDY AND DEVELOP PLANS TO ENHANCE DISASTER MANAGEMENT CAPABILITIES AT THE COUNTY LEVEL (S.B. 1775 – Nesbitt)

SECTION 20.1. The Division of Emergency Management, in consultation with the North Carolina Association of County Commissioners, shall study ways and develop plans to increase the capabilities of counties to plan for, respond to, and manage disasters at the local level. Plans developed shall include time lines for implementation and estimates of funding needs and shall address:

- (1) Mandating, if determined necessary, the establishment and maintenance of emergency management agencies at the county level.
- (2) Increasing the number of counties employing full-time emergency management coordinators, such that every county in the State, either individually or pursuant to a joint undertaking between two or more counties, has a full-time local emergency management coordinator available.
- (3) Implementing an emergency management certification requirement for all local emergency management coordinators and other essential local emergency management personnel.
- (4) Developing a model registry for use by the counties in identifying functionally and medically fragile persons in need of assistance during a disaster and in allocating resources to meet those needs.
- (5) Establishing a registry program for functionally and medically fragile persons in all counties.

SECTION 20.2. The Division of Emergency Management shall report the results of its study and provide the plans developed to the Chairs of the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery and the House of Representatives Appropriations Subcommittee and Senate Appropriations Committee on Natural and Economic Resources on or before December 1, 2008.

PART XXI. BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA IN CONJUNCTION WITH THE STATE BOARD OF EDUCATION, THE STATE BOARD OF COMMUNITY COLLEGES, AND THE NORTH CAROLINA INDEPENDENT COLLEGES AND UNIVERSITIES TO STUDY THE ISSUE OF PROVIDING QUALIFIED IMMUNITY TO HEALTH PROFESSIONALS FOR THE DISCLOSURE OF CONFIDENTIAL INFORMATION WHEN THE DISCLOSURE IS FOR THE PURPOSE OF PREVENTING OR MITIGATING HARM TO OTHERS (S.B. 2080 – Rand, Hagan)

SECTION 21.1. The Board of Governors of The University of North Carolina, in conjunction with the State Board of Community Colleges, the State Board of Education, and the North Carolina Independent Colleges and Universities shall study the issue of providing qualified immunity to mental health and health professionals for the disclosure of confidential information when the disclosure is for the purpose of preventing or mitigating harm to others, consistent with the recommendations of the UNC Campus Safety Task Force. The Board of Governors shall seek the input of licensing bodies of the mental health and health professionals when developing its recommendations.

SECTION 21.2. The Board of Governors of The University of North Carolina shall submit a final report of the results of this study to the Joint Select Committee on Governmental Immunity on or before December 1, 2008, including any legislative recommendations.

PART XXII. BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO STUDY THE ACCESSIBILITY OF ITS FACILITIES TO SEVERELY PHYSICALLY DISABLED INDIVIDUALS SEEKING BASIC ACCESS TO HIGHER EDUCATION WITHIN THE UNIVERSITY SYSTEM (S.B. 1498 – Atwater)

SECTION 22.1. The Board of Governors of The University of North Carolina shall study the accessibility of its facilities to severely physically disabled individuals seeking basic access to higher education at constituent institutions of The University of North Carolina. In its study, the Board of Governors may consider all of the following:

- (1) What specific educational assistance the State has funded that would be available to severely physically disabled individuals.
- (2) What specific educational assistance the State currently funds that would be available to severely physically disabled individuals.
- (3) The role of the Division of Vocational Rehabilitation of the Department of Health and Human Services in providing educational assistance at public and private universities or secondary schools that was, or currently is, available to severely physically disabled individuals.
- (4) Whether the Division of Vocational Rehabilitation of the Department of Health and Human Services could provide for the personal care of severely physically disabled students at one or more constituent institutions of The University of North Carolina.
- (5) The desirability and feasibility of making the facilities of one constituent institution accessible to severely physically disabled students.
- (6) The estimated costs of making the facilities of one constituent institution accessible to severely physically disabled students and providing for the personal care of severely physically disabled students at this institution.
- (7) Whether the Illinois program to support its physically disabled population at its state universities offers any guidance to North Carolina.

- (8) Any other issues the Board of Governors deems pertinent to its study under this section.

SECTION 22.2. The Board of Governors of The University of North Carolina shall submit a report of its study to the Fiscal Research Division and to the Joint Legislative Education Oversight Committee, including its findings, recommendations, and any legislative proposals, on or before February 1, 2009.

PART XXIII. DIRECTING THE DEPARTMENT OF PUBLIC INSTRUCTION TO STUDY THE EFFECTIVENESS OF GEOGRAPHY EDUCATION IN MIDDLE AND HIGH SCHOOLS (H.B. 2171 – Glazier, Farmer-Butterfield)

SECTION 23.1. The Department of Public Instruction shall study the effectiveness of geography education in middle schools and high schools and shall consider potential changes to geography education. The Department of Public Instruction shall report the results of this study, including any recommended changes to geography education, to the Joint Legislative Education Oversight Committee on or before January 15, 2009.

PART XXIV. DIRECTING THE STATE BOARD OF EDUCATION TO CONDUCT A STUDY TO DEVELOP A FRAMEWORK FOR A NORTH CAROLINA BOARD CERTIFICATION PROCESS FOR PRINCIPALS AND ASSISTANT PRINCIPALS (H.B. 2513 – Cotham)

SECTION 24.1. The State Board of Education, in cooperation with the Board of Governors of The University of North Carolina, shall conduct a study to develop a framework for a North Carolina Board Certified Principal and Assistant Principal Program (Program). The purpose of the Program shall be (i) to strengthen the leadership and professional skills of principals and assistant principals, (ii) to assist with the State's efforts to attract and retain highly qualified school leaders, and (iii) to enhance the learning environment in public schools to promote student achievement.

SECTION 24.2. In developing the framework, the State Board of Education and the Board of Governors shall consult with the Center for School Leadership Development, the Principals Executive Program, the North Carolina Association of School Administrators, the N. C. Principals/Assistant Principals Association, Inc., and the National Board for Professional Teaching Standards.

SECTION 24.3. As part of its study, the State Board of Education shall ensure that the framework for the Program:

- (1) Aligns continued professional development with the North Carolina Standards for School Executives.
- (2) Supports the development of principals and assistant principals as 21st century leaders.
- (3) Models the principal certification program after the teacher certification program developed by the National Board for Professional Teaching Standards.
- (4) Addresses the growing shortage of highly qualified leaders in North Carolina public schools by recommending strategies to attract and retain principals and assistant principals.
- (5) Provides principals and assistant principals who have successfully participated in the program with a supplementary salary incentive

commensurate with the increased demands and responsibilities of the principalship.

SECTION 24.4. The State Board of Education shall develop a process to evaluate the effectiveness of the Program.

SECTION 24.5. The State Board of Education shall deliver a draft proposed framework to the Joint Legislative Education Oversight Committee by December 1, 2008, and report on the cost of implementing the Program for the 2009-2010 fiscal year.

PART XXV. STATE BOARD OF EDUCATION TO STUDY K-12 PHYSICAL EDUCATION IN THE PUBLIC SCHOOLS (H.B. 2592 – Bell)

SECTION 25.1. The State Board of Education shall study the current status of K-12 physical education in North Carolina. Each local school administrative unit shall collect baseline data at the individual school level and report the baseline data to the Department of Public Instruction for analysis. At a minimum, the baseline data shall include:

- (1) Minutes in physical education on a weekly basis throughout the school year for every school.
- (2) Number of physical education classes per week throughout the school year for every school.
- (3) Average physical education class size for every school.
- (4) Student Body Mass Index (BMI) data for a statistically valid random sample of students of various ages from all 100 counties.
- (5) Nutrition and physical activity knowledge and behaviors of the same random sample of students.

The baseline BMI data shall not be self-reported by students or parents but shall be collected by a trained professional such as a school nurse or physical education teacher. The data shall be compiled in a single, statewide, publicly accessible database hosted by an entity approved by the Department of Public Instruction. Ideally, the data will be made available in a manner that can be sorted by individual school, local school administrative unit, and county. Local school administrative units shall seek guidance from the Department of Public Instruction in determining the appropriate sample size for the BMI data.

The State Board of Education shall report the findings of the study to the Joint Legislative Education Oversight Committee on or before December 1, 2008.

PART XXVI. DIRECT THE DEPARTMENT OF TRANSPORTATION TO STUDY PIEDMONT AND NORTHERN RAILWAY LINE IN GASTON COUNTY TO DETERMINE THE COST OF BRINGING THE FULL LINE BACK INTO SERVICE (H.B. 2547 – Neumann, Clary, Current)

SECTION 26.1. The Department of Transportation is directed to study the Piedmont & Northern Railway line in Gaston County to determine the cost to bring the full line back into operation. The Department shall report its findings to the Joint Legislative Transportation Oversight Committee on or before January 15, 2009.

PART XXVII. DIRECT THE DEPARTMENT OF TRANSPORTATION TO STUDY AMENDING ITS STANDARDS FOR PLACEMENT OF SOUND BARRIERS IN ORDER TO PROTECT RESIDENTIAL COMMUNITIES LOCATED NEAR ITS FACILITIES (H.B. 2730 – T. Harrell, Harrison, Samuelson, Avila)

SECTION 27.1. The Department of Transportation shall study the feasibility of amending its standards for construction of sound barriers to allow construction of sound barriers along existing highways that generate a significant noise impact, in order to mitigate the impact of noise on residential communities adjacent to those highways.

SECTION 27.2. The Department shall report the findings of its study, including costs associated with changing the standard and potential sources of funds for additional sound barrier construction, to the Joint Legislative Transportation Oversight Committee by March 1, 2009.

PART XXVIII. RESERVED

PART XXIX. RESERVED

PART XXX. NORTH CAROLINA FILM OFFICE OF THE DEPARTMENT OF COMMERCE TO DEVELOP PLAN TO CREATE FILM PRODUCTION FACILITIES IN THE STATE (Garrou)

SECTION 30.1. The North Carolina Film Office of the Department of Commerce shall, in consultation with the Film School of the North Carolina School of the Arts and industry leaders, develop a plan for the State to partner with the film industry to create production facilities in North Carolina. The Film Office shall report to the Joint Legislative Commission on Governmental Operations on the plan by January 1, 2009.

PART XXXI. NORTH CAROLINA INSTITUTE OF MEDICINE TO STUDY ISSUES RELATING TO ACCESS TO HEALTH CARE

SECTION 31.1. The North Carolina Institute of Medicine shall convene a panel to continue to study issues related to access to appropriate and affordable health care for all North Carolinians.

SECTION 31.2. The Institute shall report to the Joint Legislative Health Care Oversight Committee, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the General Assembly, and may recommend legislation to the General Assembly. No later than January 15, 2009, the Institute shall make recommendations on the following:

- (1) Previous studies by the Institute.
- (2) Other relevant current studies by the Institute.
- (3) Analysis of successful efforts in other states to improve access and affordability to health care.
- (4) Analysis of relevant federal initiatives.

In developing the proposed recommendations, the Institute of Medicine shall not study issues related to scope of practice and professional licensing. The Institute shall seek the advice and consultation of State and national experts in health care economics, health care systems development, health care delivery, health care access, indigent health care, medical education, health care finance, and other relevant areas of expertise. The Institute shall report its recommendations to the Joint Legislative Health Care Oversight Committee no later than January 15, 2009.

SECTION 31.3. In the event members of the General Assembly serve on this panel, they shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1.

PART XXXII. NORTH CAROLINA INSURANCE UNDERWRITING ASSOCIATION, THE NORTH CAROLINA JOINT UNDERWRITING ASSOCIATION AND THE NORTH CAROLINA RATE BUREAU STUDY THE ABILITY OF THE NORTH CAROLINA INSURANCE UNDERWRITING ASSOCIATION TO RESPOND FINANCIALLY TO A SIGNIFICANT HURRICANE IN THIS STATE

SECTION 32.1. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall appoint a committee to study the potential impact of Category 3, 4 and 5 hurricanes on the North Carolina insurance market and to make recommendations to the General Assembly. The Committee shall include at least one representative from the Department of Insurance, the North Carolina Insurance Underwriting Association, the North Carolina Joint Underwriting Association, and the North Carolina Rate Bureau, and at least one member representing a national insurer, one representing a regional insurer and one member representing a domestic insurer.

SECTION 32.2. The study shall consider the potential impact of Category 3, 4 and 5 hurricanes on the North Carolina insurance market including: the ability of the North Carolina Insurance Underwriting Association and the North Carolina Joint Underwriting Association to pay claims, reinsurance purchases by the North Carolina Insurance Underwriting Association and the North Carolina Joint Underwriting Association, other potential financing options, assessments on the private market, and options for recoupment of assessments by the private market. The study shall also consider residual market experience and assessment structures in other states as a basis for comparison, land use issues, mitigation issues, and may consider any other factors deemed relevant by the appointed study committee representatives.

SECTION 32.3. The study committee shall report the findings and recommendations to the General Assembly on or before February 1, 2009.

PART XXXIII. STUDY THE ROLE THAT REGIONAL EDUCATION SERVICE CENTERS THAT ARE CREATED WITHIN THE DEPARTMENT OF PUBLIC INSTRUCTION COULD PLAY IN THE DELIVERY OF PROFESSIONAL DEVELOPMENT THROUGHOUT THE STATE (S.B. 1764 – Swindell)

SECTION 33.1. The Joint Legislative Education Oversight Committee shall contract with a credible independent source, individual, or organization to study the roles that regional education service centers created within the Department of Public Instruction could play in the delivery of professional development throughout the State. The contractor shall not be an employee or independent contractor of any organization that delivers professional development to teachers in North Carolina.

SECTION 33.2. The study by the contractor shall:

- (1) Examine regional education service center models in other states;
- (2) Provide qualitative and quantitative data on the effectiveness of the models in other states;

- (3) Include input from consultants at the Department of Public Instruction and teachers and administrators from at least 15 local school administrative units that are of different sizes and from different geographic regions of the State; and

SECTION 33.3. The contractor's report shall:

- (1) Adequately reflect the study's methodology, sources of information, purpose and scope, analyses, evaluative assessments, recommendations, and conclusions;
- (2) State any known deficiencies or limitations of the study;
- (3) Be presented in both a printed form and an electronic version; and
- (4) Provide recommendations on the roles that regional education service centers created within the Department of Public Instruction could play in the delivery of professional development throughout the State.

SECTION 33.4. The contractor shall submit a written progress report every four weeks to the Joint Legislative Education Oversight Committee. The contractor shall complete the report within four months. At the completion of the study, the contractor shall submit a draft of the report document to the Joint Legislative Education Oversight Committee for review. Within 30 days of completing the study, the contractor shall submit a final report to the Joint Legislative Education Oversight Committee. The Joint Legislative Education Oversight Committee may, in its discretion, schedule a formal presentation of the report when it is submitted.

PART XXXIV. CONTINUE THE JOINT LEGISLATIVE STUDY COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY (S.B. 1780 – Nesbitt; H.B. 2431 – Martin, Glazier, McComas, Wainwright)

SECTION 34.1. The Joint Select Committee on Emergency Preparedness and Disaster Management Recovery is established. The Committee consists of 30 members, 15 of whom are appointed by the President Pro Tempore of the Senate and 15 of whom are appointed by the Speaker of the House of Representatives. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint a Cochair of the Committee. A Cochair or other member of the Committee continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. Members serve at the pleasure of the appointing officer.

SECTION 34.2. The Committee shall study issues related to emergency preparedness and disaster management recovery, including:

- (1) Whether the State building code sufficiently addresses issues related to commercial and residential construction in hurricane and flood prone areas.
- (2) The public health infrastructure in place to respond to natural and nonnatural disasters, including pandemic flu preparation and response. A study of the pandemic flu preparation and response should include an assessment of potential threat; funding and mechanisms needed to produce and distribute a vaccine for the avian flu; review of quarantine and isolation laws and processes; coordination issues for local and State public health officials; coordination between State departments of public health, crime control and public safety, and agriculture;

establishment of public education infrastructure for any necessary emergency vaccination program; assessment of needs of public health infrastructure; and hospital capacity to respond.

- (3) Hurricane preparedness, evacuation, and response.
- (4) Energy security, including: identifying the State's energy profile; determining the State's essential energy facilities and their connections; evaluating potential threats and the possible consequences of disruptive events; reviewing long-term strategies; outlining strategies for communication to the media and public; offering response options for each type of emergency; identifying the response measures and options that industry and government can take; coordinating local, State, and federal level issues; ensuring protection from cyber attack of computer control systems; and monitoring of State's energy supply.
- (5) Bioterrorism preparedness and response.
- (6) Flood and natural disaster preparation and response.
- (7) Any other topic the Committee believes is related to its purpose.

SECTION 34.3. The Committee shall meet upon the call of its House and Senate Cochairs. A quorum of the Committee shall be a majority of its members. The Committee may be organized into subcommittees in order to facilitate discussion and to develop recommendations on the several important specialized issues for statewide consideration.

SECTION 34.4. The Committee, while in discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 34.5. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. Individual expenses of five thousand dollars (\$5,000) or less, including per diem, travel, and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of a Cochair of the Committee. Individual expenses in excess of five thousand dollars (\$5,000) shall be paid upon the written approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. All expenses of the Committee shall be paid from the Legislative Services Commission's Reserve for Studies.

SECTION 34.6. With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical support staff to the Committee. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Committee in the State Legislative Building or the Legislative Office Building.

SECTION 34.7. The Committee may submit an interim report on the results of its study, including any proposed legislation, at any time. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the General Assembly, on or before December 31, 2009. The Committee shall file a copy of each Committee report with the President Pro Tempore's office, the Speaker's

office, and the Legislative Library. The Committee shall terminate on December 31, 2009, or upon the filing of its final report, whichever occurs first.

PART XXXV. CHANGE REPORTING REQUIREMENTS OF THE JOINT LEGISLATIVE COMMISSION ON DROPOUT PREVENTION AND HIGH SCHOOL GRADUATION (S.B. 1806 – Malone)

SECTION 35.1. Section 7.32 (f)(8) of S.L. 2007-323 reads as rewritten:

"(8) The Commission ~~may submit an interim report, including any recommendations and proposed legislation, to the Joint Legislative Education Oversight Committee and the General Assembly by May 1, 2008,~~ and shall submit a final an interim written report of its findings and recommendations on or before the convening of the 2009 Session of the General Assembly. The Commission may submit an interim report, including any recommendations and proposed legislation, to the Joint Legislative Education Oversight Committee and the General Assembly by May 1, 2010, and shall submit a final written report of its findings and recommendations on or before the convening of the 2011 Session of the General Assembly. All reports shall be filed with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate."

PART XXXVI. LEGISLATIVE STUDY COMMISSION ON URBAN GROWTH AND INFRASTRUCTURE ISSUES (S.B. 1841 – McKissick)

SECTION 36.1. There is created the Legislative Study Commission on Urban Growth and Infrastructure Issues. The purpose of the Commission is to determine what measures the General Assembly may take to foster regional water resource and transportation planning, incentive-based local land use planning, and more responsive and cost-effective planning to accommodate rapid population growth in North Carolina's urban areas.

SECTION 36.2. The Commission shall consist of 14 members as follows:

- (1) Five members appointed by the Speaker of the House of Representatives.
- (2) Five members appointed by the President Pro Tempore of the Senate.
- (3) Four members representing North Carolina's urban areas appointed jointly by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, including at least one member from Wake, Durham, or Orange County, one member from Forsyth or Guilford County, and one member from Mecklenburg County.

SECTION 36.3. The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore of the Senate shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority that made the initial appointment.

SECTION 36.4. The Commission shall study the following issues relating to urban growth and infrastructure:

- (1) Options for fostering regional planning for water and transportation infrastructure.

- (2) Strategies (including additional local land use regulatory tools) for encouraging the use of incentive-based planning by urban area local governments.
- (3) Strategies to help urban communities maximize the benefits of growth and cope with the challenges presented by rapid growth in population, school enrollment, vehicle miles traveled on urban roads and highways, and related demands for other public services while preserving a viable economic climate and building greater regional cooperation.
- (4) Any other matters the Commission considers necessary in furtherance of the purpose for which it is established.

SECTION 36.5. 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 meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

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.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission.

SECTION 36.6. The Commission shall report the results of its study and its recommendations to the 2009 General Assembly upon its convening.

PART XXXVII. DIRECTING THE JOINT LEGISLATIVE STUDY COMMITTEE ON PUBLIC SCHOOL FUNDING FORMULAS TO EXTEND ITS REVIEW OF PUBLIC SCHOOL FUNDING (S.B. 1993 – Swindell)

SECTION 37.1. The Joint Legislative Study Committee on Public School Funding Formulas may review the implementation of any modifications to school funding formulas that are enacted by the General Assembly upon the recommendation of the Committee and shall evaluate the impact of those modifications.

SECTION 37.2. The Committee may report to the General Assembly at least once a year on its activities.

SECTION 37.3. The Committee shall terminate upon completion of its evaluation of modifications to public school funding formulas.

PART XXXVIII. RESERVED

PART XXXIX. JOINT LEGISLATIVE STUDY COMMITTEE ON CIVIL COMMITMENT OF SEXUAL PREDATORS WHO ARE DETERMINED TO BE INCAPABLE OF PROCEEDING TO TRIAL (Glazier)

SECTION 39.1. There is created the Joint Legislative Study Committee on Civil Commitment of Sexual Predators Who Are Determined to be Incapable of Proceeding to Trial. The Committee shall consist of 10 members to be appointed as follows: the Speaker of the House of Representatives shall appoint five members of the House of Representatives and the President Pro Tempore of the Senate shall appoint five members the Senate.

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 Committee. The Committee may meet at any time upon the joint call of the cochairs. Vacancies on the Committee shall be filled by the same appointing authority as made the initial appointment.

The Committee, 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 Committee 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 Committee 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 Committee in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical support staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. Members of the Committee 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 39.2. The Committee shall study the State's current laws regarding defendants who are determined to be incapable of proceeding to trial and the State's current laws regarding involuntary commitment. The Committee shall further consider whether these laws adequately and appropriately address the public safety issues raised by certain defendants who are: (i) charged with committing a sex offense against a child, (ii) found incapable of proceeding to trial, and (iii) do not meet the criteria for involuntary commitment. In its study, the Committee shall review legislation adopted by other states addressing these issues. The Committee may also consider any other issues it deems relevant to this study.

SECTION 39.3. The Committee shall make a final report of its findings and recommendations to the 2009 General Assembly.

PART XL. STUDY COMMISSION ON COMPENSATION OF THE GOVERNOR'S CABINET AND STATE ELECTED OFFICIALS

SECTION 40.1. There is created the Study Commission on Compensation of the Governor's Cabinet and State Elected Officials to study whether compensation is fair and appropriate and whether such officials are paid according to the duties of their offices so that citizens of the highest quality may be attracted to public service. In conducting the study, the Commission shall study compensation of like officials in other states, as well as any other relevant matters, in order to make recommendations on this topic.

SECTION 40.2. The Commission shall consist of 18 members as follows:

- (1) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (3) Four members appointed by the President Pro Tempore of the Senate to include at least one representative of business and industry in the private sector and at least one individual with expertise in personnel and human resources compensation matters.
- (4) Four members appointed by the Speaker of the House of Representatives to include at least one representative of business and industry in the private sector and at least one individual with expertise in personnel and human resources compensation matters.

Vacancies on the Commission shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a co-chair. A quorum of the Commission shall be ten members.

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, 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.

The Commission may meet at any time upon call of the chairs. 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 Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. 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 40.3. The Commission shall make a final report, including any proposed legislation, to the 2009 General Assembly by January 15, 2009. The Commission shall terminate upon filing its final report or on January 15, 2009, whichever is earlier.

PART XLI. CREATING THE POVERTY REDUCTION AND ECONOMIC RECOVERY LEGISLATIVE STUDY COMMISSION (H.B. 2687 – Pierce, Bryant)

SECTION 41.1. The General Assembly finds that poverty in this State is widespread, especially in rural areas and other areas that have lost significant numbers of agricultural and manufacturing jobs. Further, the General Assembly finds that an understanding of the causes and effects of poverty are critical in the reduction of poverty and the economic recovery of low-wealth areas. To that end, there is created the Poverty Reduction and Economic Recovery Legislative Study Commission.

SECTION 41.2. The Commission shall consist of 20 voting members appointed as follows:

- (1) Ten members appointed by the Speaker of the House of Representatives, to include:
 - a. Seven members of the House of Representatives.
 - b. Three members of the general public, including persons with expertise in the fields of business and economic development, public health, and affordable housing.
- (2) Ten members appointed by the President Pro Tempore of the Senate, to include:
 - a. Seven members of the Senate.
 - b. Three members of the general public, including persons with expertise in the fields of education, public safety, and child welfare.

SECTION 41.3. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may by mutual agreement vary the size and membership of the Commission.

SECTION 41.4. The Commission shall also include the following nonvoting, ex-officio members:

- (1) The Commissioner of Labor, or that officer's designee.
- (2) The Superintendent of Public Instruction, or that officer's designee.
- (3) The Secretary of the Department of Health and Human Services, or that officer's designee.
- (4) The Secretary of the Department of Transportation, or that officer's designee.
- (5) The Secretary of the Department of Juvenile Justice and Delinquency Prevention, or that officer's designee.
- (6) The Secretary of the Department of Commerce, or that officer's designee.
- (7) The Chairman of the Employment Security Commission, or that officer's designee.

SECTION 41.5. The Commission shall:

- (1) Study and develop a coordinated, integrated approach to poverty reduction and economic recovery across the State.
- (2) Examine poverty in each region of the State with an emphasis on the following counties: Alleghany, Avery, Bladen, Columbus, Edgecombe, Graham, Halifax, Hoke, Northampton, Robeson, Scotland, Tyrrell, Warren, Watauga, and Yancey.
- (3) Examine other states' evidenced-based intervention methods and best practices in poverty reduction and economic recovery.
- (4) Study any other matter pertinent to poverty reduction and economic recovery in North Carolina.

SECTION 41.6. 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 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 the Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. 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. The appointing authority shall fill vacancies.

The Commission, while in the discharge of its 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.

SECTION 41.7. The Commission shall submit its final report by the 2010 Regular Session of the 2009 General Assembly and may make interim reports it deems necessary. The Commission's final report shall include the results of the Commission's review and specific legislative recommendations. The Commission shall terminate upon filing its final report, or upon the convening of the 2010 Regular Session of the 2009 General Assembly, whichever occurs first.

PART XLII. STUDY THE IMPACT OF PARTITION SALES OF REAL PROPERTY ON THE ECONOMIC USE AND LOSS OF HEIR PROPERTY AND FARMLAND BY HEIRS IN NORTH CAROLINA (H.B. 1527 – Bryant, Farmer-Butterfield, Allen, Harrison)

SECTION 42.1. There is created the Partition Sales Study Committee to address the issue of the impact of the partition sale procedures on the economic use and loss of heir property and farmland by heirs in North Carolina.

SECTION 42.2. The Committee shall be comprised of 18 members as follows:

- (1) Nine members appointed by the Speaker of the House of Representatives as follows:
 - (a) Five members of the House of Representatives.
 - (b) A Clerk of Superior Court.
 - (c) Three members of the public with an expertise or stakeholder interest in the issue.
- (2) Nine members appointed by the President Pro Tempore of the Senate as follows:
 - (a) Five members of the Senate.
 - (b) A Clerk of Superior Court.
 - (c) Three members of the public with an expertise or stakeholder interest in the issue.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair of the Committee. A quorum of the Committee shall be a majority of its members. The Committee shall meet upon the joint call of the cochairs.

SECTION 42.3. The Committee shall study the laws and procedures concerning partition sales in North Carolina and how these laws affect landowners in the State, examining both the effectiveness and equity of the current law and exploring potential alternatives. Specifically, the Committee shall:

- (1) Review information about partition sales and examine current trends in partition sales in the State, especially related to sales initiated by strangers in interest to heirs or related cotenants.

- (2) Analyze research and information from North Carolina and other states and jurisdictions regarding the effect of partition laws on desired land retention and economic development.
- (3) Analyze information concerning the comparative frequency of partition sales vs. partition-in-kind in North Carolina.
- (4) Identify and assess alternative partition sales laws from other states.
- (5) Explore how best to balance competing interests of the tenants in common in the partition sales context.
- (6) Identify and consult with academics who have studied partition sales nationally to determine their recommendations concerning best practices in partition proceedings.
- (7) Identify current barriers to the adoption of best practices recommendations and to alternative laws adopted by other states and potential options to address these barriers.
- (8) Prepare a report with a statement of the issues and a summary of the research including the Committee's recommendations concerning any needed improvements and draft legislation to address any inequities presented by partition sales in North Carolina.

SECTION 42.4. Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to the Committee to aid in its work. The Committee 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 Committee may meet in the Legislative Building or the Legislative Office Building. The Committee, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 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.

SECTION 42.5. The Committee shall submit a final report of the results of its study, including any legislative recommendations, to the 2009 General Assembly no later than March 1, 2009. The Committee shall terminate on March 1, 2009, or upon the filing of its final report, whichever occurs first.

PART XLIII. RESERVED

PART XLIV. JOINT LEGISLATIVE STUDY COMMISSION ON STATE GUARDIANSHIP LAWS (H.B. 2379 – Farmer-Butterfield)

SECTION 44.1. There is created the Joint 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 44.2. The Commission shall consist of 19 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 and Adult Services 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 Disability Rights North Carolina.
- (10) A director of a local management entity appointed by the President Pro Tempore of the Senate.
- (11) A representative of the Mental Health Association in North Carolina appointed by the Speaker of the House of Representatives.
- (12) A member of an aging advocacy support group appointed by the President Pro Tempore of the Senate.
- (13) A director of public health appointed by the Speaker of the House of Representatives.

In addition, representatives designated by the following organizations shall serve as advisory, nonvoting members of the Commission:

- a. The North Carolina Bar Association.
- b. The Arc of North Carolina.
- c. The North Carolina Guardianship Association.
- d. The Alzheimer's Association – Western North Carolina Chapter.
- e. The Alzheimer's Association – Eastern North Carolina Chapter.
- f. The Protection and Advocacy for Individuals with Mental Illness Advisory Council (PAIMI).
- g. Area Agencies on Aging.
- h. County Departments on Aging.
- i. The North Carolina Hospital Association.
- j. A county director of mental health, developmental disabilities, and substance abuse services.

The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore of the Senate shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority who made the initial appointment.

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 Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. 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 44.3. In conducting the study, the Commission shall consider issues related to guardianship for incompetent persons and minors including, but not limited to, 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 or, if appropriate, incapacity.
- (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 role of public human services agencies in providing guardianship services.
- (6) Legal procedures and protections in guardianship proceedings.
- (7) Public monitoring of guardianship.
- (8) Examination of current training resources and the possible collaboration and coordination of current training resources for all stakeholders, including family members, individuals, corporate guardians, and public agencies.
- (9) Certification of all guardians and adoption of standards of practice for guardians.
- (10) Educating citizens with respect to guardianship and alternatives to guardianship.
- (11) Powers, duties, and liabilities of guardians, including guardians of the person.
- (12) Creation of an Office of Public Guardian.
- (13) Public guardianship, including the provision and funding of public guardianship services, treatment of disinterested public agent guardians, priorities regarding appointment of individuals, corporations, and public guardians, and possible conflicts of interest with the appointment of certain disinterested public agent guardians.
- (14) Funding for guardianship services provided by nonprofit agencies, including the need of current corporate guardians for additional resources in providing services to wards.
- (15) Implementation of additional corporate guardianship programs.
- (16) Enactment of the Uniform Guardianship and Protective Proceedings Act (UGPPA) or similar revisions to Chapter 35A of the General Statutes.
- (17) Jurisdictional provisions governing incompetency and guardianship proceedings and portability of guardianship for foreign guardians.

- (18) Role of court-appointed lawyers and guardians ad litem in guardianship proceedings to ensure adequate representation of respondents.
- (19) Whether guardianship statutes need revision to provide greater protection of the health and welfare of incapacitated adults.
- (20) Whether the State should track the number of people under private guardianship and, if so, proposed methods for the tracking.
- (21) Prudent investor rules.
- (22) Review of the State's adult protective services law.

SECTION 44.4. The Legislative Study Commission on State Guardianship Laws may make its final report to the 2009 General Assembly, prior to its convening. The Commission shall expire upon delivering its final report, or upon the convening of the 2009 General Assembly, whichever occurs first.

SECTION 44.5. 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.

PART XLV. LEGISLATIVE STUDY COMMISSION TO REVIEW THE BENEFITS PROVIDED THROUGH THE NORTH CAROLINA NATIONAL GUARD PENSION FUND (S.B. 888 – Atwater)

SECTION 45.1. There is established the North Carolina National Guard Pension Fund Study Commission to examine the current status of the North Carolina National Guard Pension Fund authorized by Article 3 of Chapter 127A of the General Statutes. The Commission shall consider, but is not limited to, the following issues:

- (1) The actuarial condition of the Fund and measures that might be taken by the General Assembly to ensure the long-term solvency of the Fund.
- (2) Changes to the minimum and maximum monthly benefits that are paid from the Fund.
- (3) Changes to the eligibility requirements, including the minimum age for receiving benefits and minimum years of creditable military service.

SECTION 45.2. The Commission shall consist of 11 members appointed as follows:

- (1) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Five members of the House appointed by the Speaker of the House of Representatives.
- (3) One member representing the national guard, recommended by the Governor and jointly appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 45.3. 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 Directors of Legislative Assistants. 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 45.4. The Commission shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations no later than March 1, 2009, at which time the Commission shall terminate.

PART XLVI. JOINT LEGISLATIVE STUDY COMMISSION ON MUNICIPAL ANNEXATION

SECTION 46.1. There is established the Joint Legislative Study Commission on Municipal Annexation.

SECTION 46.2. The Commission shall be composed of 28 members as follows:

- (1) Twelve members appointed by the President Pro Tempore of the Senate.
- (2) Twelve members appointed by the Speaker of the House of Representatives.
- (3) One member representing the North Carolina League of Municipalities, appointed by the President Pro Tempore of the Senate.
- (4) One member representing the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives.
- (5) One member representing the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate.
- (6) One member representing the North Carolina Association of County Commissioners, appointed by the Speaker of the House of Representatives.

Vacancies on the Commission shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a co-chair. A quorum of the Commission shall be fourteen members.

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, 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.

The Commission may meet at any time upon call of the chairs. 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 Senate's Directors of Legislative Assistants shall assign clerical

staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. 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 46.3. The Commission shall study municipal annexation in North Carolina. As a part of its study, the Commission may examine issues related to:

- (1) State law governing involuntary annexation, voluntary annexation by petition, and voluntary satellite annexation.
- (2) Municipal compliance with current annexation procedural standards.
- (3) Provision of services to persons in areas subject to annexation.
- (4) The effect of creation of an independent review procedure for municipal annexation decisions.
- (5) Current standards for judicial review and appeal of municipal annexation decisions.
- (6) The impact of the current annexation law on municipalities and the State as a whole.
- (7) Whether the State's current annexation law should be amended.
- (8) Any other issue related to annexation deemed relevant by the Commission.

SECTION 46.4. The Commission shall make a final report, including any proposed legislation, to the 2009 General Assembly upon its convening. The Commission shall terminate upon filing its final report or upon the convening of the 2009 General Assembly, whichever is earlier.

PART XLVII. EPILEPSY PATIENTS AND MEDICATION INTERCHANGE STUDY COMMISSION (Purcell)

SECTION 47.1. Commission Established. – The Epilepsy Patients and Medication Interchange Study Commission is hereby established.

SECTION 47.2. Membership. – The Commission shall consist of 21 members as follows:

- (1) Three members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Three members of the House appointed by the Speaker of the House of Representatives.
- (3) Executive Director of the North Carolina Epilepsy Foundation, or the Executive Director's designee.
- (4) The State Health Director, or the Director's designee.
- (5) Director of the Epilepsy Information Service.
- (6) Six members appointed by the President Pro Tempore of the Senate as follows:
 - a. A representative recommended by the North Carolina Board of Pharmacy.
 - b. A representative recommended by the University of North Carolina at Chapel Hill School of Pharmacy.
 - c. A representative recommended by the North Carolina Medical Society.
 - d. A representative recommended by the Duke University School of Medicine, Department of Neurobiology.

- e. A representative recommended by the Brody School of Medicine at East Carolina University, Neuroscience Program.
 - f. A representative of the epilepsy patient community at large recommended by the Director of the North Carolina Epilepsy Foundation.
- (7) Six members appointed by the Speaker of the House of Representatives as follows:
- a. A representative recommended by the North Carolina Association of Pharmacists.
 - b. A representative recommended by the North Carolina Medical Board.
 - c. A representative recommended by the University of North Carolina at Chapel Hill School of Medicine, Department of Neurology.
 - d. A representative recommended by the Wake Forest University Baptist Medical Center, Department of Neurology.
 - e. A representative of the pharmaceutical industry.
 - f. A representative of the epilepsy patient community at large recommended by the Director of the North Carolina Epilepsy Foundation.

SECTION 47.3. Cochairs. – The Commission shall have two cochairs, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House of Representatives from among their respective appointees. The Commission shall meet upon the call of the cochairs.

SECTION 47.4. Quorum. – A quorum of the Commission shall consist of 13 members.

SECTION 47.5. Vacancies. – Any vacancy on the Commission shall be filled by the original appointing authority.

SECTION 47.6. Purpose and Duties. – The Commission shall study all facets of the issues involving the protection of epilepsy patients from medication interchange.

SECTION 47.7. 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 47.8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to the Commission to aid in its work.

SECTION 47.9. Consultants. – The Commission may hire consultants to assist with the study as provided in G.S. 120-32.02(b).

SECTION 47.10. Meetings. – The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

SECTION 47.11. Report. – The Commission shall report its findings and recommendations to the General Assembly and the Joint Legislative Health Care Oversight Committee on or before February 1, 2009, at which time the Commission shall terminate.

PART XLVIII. HIGHER EDUCATION CIVIC EDUCATION STUDY

SECTION 48.1. There is established the Higher Education Civic Education Study Commission to advise the State on the role of higher education in helping to strengthen and enhance the ability of colleges and universities to participate in civic engagement activities with K-12 educational institutions, faith-based programs, or other service programs affecting the social development and literacy of school-aged children.

SECTION 48.2. The Commission shall consist of 19 members appointed 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) Four members appointed by the President Pro Tempore of the Senate, two of whom represent higher education and have experience in implementing service-learning partnerships between higher education and K-12 education, one president or chancellor representing a public or private college or university, and one organization or community representative with experience in the area of youth development.
- (4) Four members appointed by the Speaker of the House of Representatives, two of whom represent K-12 education systems and have experience in implementing community partnerships between higher education and community-based service organizations, one chancellor or president of a public or private college or university, and one representative from the faith-based community.
- (5) Three members appointed by the Governor, one of whom represents the Board of Governors of The University of North Carolina, and one superintendent representing a low-wealth public education system.

SECTION 48.3. 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 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 Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. 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 48.4. In conducting the study, the Commission shall:

- (1) Develop recommendations for implementation of mandatory service-learning as a graduation requirement for all higher education institutions receiving State funds.
- (2) Develop recommendations to include best practices for faculty, students and community partners entering into service-learning relationships.
- (3) Develop recommendations to address resource requirements necessary to assist higher education institutions in the implementation of service-learning partnerships.

- (4) Develop recommendations for monitoring and evaluating the impact of civic engagement programs on the performance of K-12 and higher education students.
- (5) Study any other issues deemed relevant by the Commission.

SECTION 48.5. The Commission shall make a final report, including any proposed legislation, to the 2009 General Assembly upon its convening. The Commission shall terminate upon filing its final report or upon the convening of the 2009 General Assembly, whichever occurs first.

PART XLIX. MORE AT FOUR YEARLY REVIEW

SECTION 49.1. Section 7.24(a)(11) of S.L. 2007-323, as amended by Section 7.17(c) of S.L. 2008-107, reads as rewritten:

"**SECTION 7.24.(a)** The Department of Public Instruction 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 and the Department of Public Instruction. The program shall include:

- ...
- (11) A system of accountability to include a yearly review. The Department shall contract with an independent research organization to produce an annual report to include longitudinal review of the program and academic, behavioral, and other child-specific outcomes. The review shall also include a test of the feasibility of conducting a quasi experimental research design of—with a representative sample or samples of children who complete the More at Four program every year and children of comparable demographics and grade levels that do not participate in a More at Four program. shall report on their sustained progress until the end of grade 9. The review shall also study a representative sample of children who do not enter the More at Four program but who are of the same grade level and demographic as those who complete the program and their sustained progress shall also be reviewed until the end of grade 9. The review shall be presented to the Joint Legislative Oversight Committee on Education by January 31 of every year."

PART L. OUT-OF-STATE TRAVEL

SECTION 50.1. For legislative studies authorized by this act, out-of-state travel must be authorized by the President Pro Tempore of the Senate or the Speaker of the House of Representatives, as appropriate.

PART LI. BILL AND RESOLUTION REFERENCES

SECTION 51.1. 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.

PART LII. EFFECTIVE DATE AND APPLICABILITY

SECTION 52.1. 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 2008, the study shall be implemented in accordance with the Current Operations and Capital Improvements Appropriations Act of 2008 as ratified.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 3:09 p.m. on the 4th day of August, 2008.

Session Law 2008-182

H.B. 2391

AN ACT AUTHORIZING THE DIVISION OF MOTOR VEHICLES TO CONSIDER RECOMMENDATIONS FROM THE CLERK OF COURT IN DETERMINING WHETHER TO REVOKE THE DRIVERS LICENSE OF A PERSON ADJUDICATED INCOMPETENT UNDER THE GUARDIANSHIP LAWS, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-17.1(a) reads as rewritten:

"(a) The Commissioner, upon receipt of notice that any person has been legally adjudicated incompetent or has been involuntarily committed to an institution for the treatment of alcoholism or drug addiction, shall forthwith make inquiry into the facts for the purpose of determining whether such person is competent to operate a motor vehicle. If a person has been adjudicated incompetent under Chapter 35A of the General Statutes, in making an inquiry into the facts, the Commissioner shall consider the clerk of court's recommendation regarding whether the incompetent person should be allowed to retain his or her driving privilege. Unless the Commissioner is satisfied that such person is competent to operate a motor vehicle with safety to persons and property, he shall revoke such person's driving privilege. Provided that if such person requests, in writing, a hearing, he shall retain his license until after the hearing, and if the revocation is sustained after such hearing, the person whose driving privilege has been revoked under the provisions of this section, shall have the right to a review by the review board as provided in G.S. 20-9(g)(4) upon written request filed with the Division."

SECTION 2. This act becomes effective October 1, 2008, and applies to persons adjudicated incompetent under Chapter 35A of the General Statutes on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 3:11 p.m. on the 4th day of August, 2008.

Session Law 2008-183

H.B. 2397

AN ACT TO AUTHORIZE THE NORTH CAROLINA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS TO OBTAIN CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR LICENSURE AS NURSING HOME ADMINISTRATORS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

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

"§ 90-288.01. Criminal history record checks of applicants for licensure.

(a) The following definitions apply in this section:

(1) Applicant. – A person applying for initial licensure pursuant to either G.S. 90-278 or G.S. 90-287 or applying for renewal of licensure pursuant to G.S. 90-286.

(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure as a nursing home administrator. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) Criminal History Record Check. – The Board shall require a criminal history record check of all applicants. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall provide 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 history record check and the use of fingerprints and other identifying information required by the State

or National Repositories, 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.

(c) Convictions. – If the applicant's criminal history record check reveals one or more convictions listed under subdivision (2) of subsection (a) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the applicant at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the applicant and the job duties of the position to be filled.
- (6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the applicant of a crime listed in subsection (a) of this section.

(d) Denial of Licensure. – If the Board refuses to issue or renew a license based on information obtained in a criminal history record check, the Board must disclose to the applicant the information contained in the criminal history record check that is relevant to the Board's actions. The Board shall not provide a copy of the criminal history record check to the applicant. An applicant has the right to appear before the Board to appeal the Board's decision. An appearance before the Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(e) Limited Immunity. – The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for its actions based on information provided in an applicant's criminal history record check."

SECTION 2. Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-19.25. Criminal history record checks of applicants for licensure as nursing home administrators.

(a) The Department of Justice may provide to the North Carolina State Board of Examiners for Nursing Home Administrators from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a nursing home administrator under Article 20 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential.

(b) The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 3. Sections 1 and 2 of this act are effective December 1, 2008, and apply to nursing home administrator applications and renewals submitted to the Board on or after this date. 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, 2008.

Became law upon approval of the Governor at 3:15 p.m. on the 4th day of August, 2008.

Session Law 2008-184

S.B. 1796

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ALLOW A CERTAIN INCOME DISREGARD UNDER THE SPECIAL ASSISTANCE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. The eligibility of Special Assistance residents residing in adult care homes on and after July 1, 2009, shall not be affected because of annual Social Security, SSI, Veteran, and Railroad Retirement Cost of Living Adjustments (COLAs). This policy shall apply only in cases where Special Assistance income eligibility is affected only by Social Security, SSI, Veteran, and Railroad Retirement COLAs and shall not render a Special Assistance recipient eligible if all other eligibility requirements are not met. The maximum monthly rate for these residents shall be the same as for all other residents according to the provisions as set in the Current Operations Appropriations Act, as amended. The Department of Health and Human Services shall apply for the approvals, if any, which are necessary to implement the policy change directed by this section.

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, 2008.

Became law upon approval of the Governor at 1:00 p.m. on the 6th day of August, 2008.

Session Law 2008-185

S.B. 1541

AN ACT TO ENACT THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VI of Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 29B.

"Interstate Compact on Educational Opportunity for Military Children.

"§ 115C-407.5. Interstate Compact on Educational Opportunity for Military Children.

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I.
PURPOSE.

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE II.
DEFINITIONS.

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301, et. seq. and 10 U.S.C. § 12401, et. seq.

B. "Children of military families" means: a school-aged child(ren), enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders through six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and

involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth (12th) grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. "Transition" means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

ARTICLE III.

APPLICABILITY.

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on

active duty orders pursuant to 10 U.S.C. § 12301, et. seq. and 10 U.S.C. § 12401, et. seq.;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and
3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the national guard and military reserves;
2. members of the uniformed services now retired, except as provided in Section A;
3. veterans of the uniformed services, except as provided in Section A; and other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV.

EDUCATIONAL RECORDS & ENROLLMENT.

A. Unofficial or "hand-carried" education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts – Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall

enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V.

PLACEMENT & ATTENDANCE.

A. Course placement – When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services – 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI.

ELIGIBILITY.

A. Eligibility for enrollment – Children of military families shall be eligible for enrollment in the public schools of North Carolina pursuant to the provisions of G.S. 115C-366, including the provisions of G.S. 115C-366(a3) that provides for

admission, without the payment of tuition, of children of military families not domiciled within the school district, provided that the affidavits provided for in that section and other specified conditions are met.

B. Eligibility for extracurricular participation – State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII. GRADUATION.

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements – Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams – States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm-referenced achievement tests or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during Senior year – Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII. STATE COORDINATION.

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.
2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.
3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.
4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the

provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes;
or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.

ARTICLE X.

POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

The Interstate Commission shall have the following powers:

- A. To provide for dispute resolution among member states.
- B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes and shall be binding in the compact states to the extent and in the manner provided in this compact.
- C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.
- D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process. Any action to enforce compliance with the compact provisions by the Interstate Commission shall be brought against a member state only.
- E. To establish and maintain offices which shall be located within one or more of the member states.
- F. To purchase and maintain insurance and bonds.
- G. To borrow, accept, hire or contract for services of personnel.
- H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
- L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
- M. To establish a budget and make expenditures.
- N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
- O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.
- Q. To establish uniform standards for the reporting, collecting and exchanging of data.
- R. To maintain corporate books and records in accordance with the bylaws.
- S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
- T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee, and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:
 - a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
 - b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.
2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director

shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.
2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.
3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority – The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure – Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes.
2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.
3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination – If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission

- shall specify the conditions by which the defaulting state must cure its default.
2. Provide remedial training and specific technical assistance regarding the default.
 3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
 4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
 5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.
 6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
 7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.
- C. Dispute Resolution
1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.
 2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
- D. Enforcement
1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
 2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be

awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the

effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.
4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.
5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.
2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.
2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.
2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

"§ 115C-407.6. Creation of a State Council.

The State Board of Education shall establish a State Council, as required by Article VIII of the compact. The membership of the State Council shall include, at a minimum, the Superintendent of Public Instruction, a superintendent of a local school administrative unit with a high concentration of military children, a representative from a military installation, a representative of the executive branch of government, a representative of the North Carolina School Boards Association, a representative of the North Carolina Association of School Administrators, a member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and a member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

"§ 115C-407.7. Appointment of compact commissioner.

As required by Article VIII of the compact, the Governor shall appoint as compact commissioner a licensed North Carolina attorney who represents at least one local board of education, with preference given to an attorney representing a local board of education with a high concentration of military children or an attorney familiar with military issues. The compact commissioner shall be responsible for the administration and management of the State's participation in the compact.

"§ 115C-407.8. Effective date of compact.

This Article becomes effective July 1, 2008, or upon enactment of the compact into law by nine other states, whichever date occurs later."

SECTION 2. G.S. 115C-366(a3)(1)(g) reads as rewritten:

"(g) The parent or legal guardian is one of the following:

- (1) ~~on~~On active military duty and is deployed out of the local school administrative unit in which the student ~~resides~~; resides;
- (2) A member or veteran of the uniformed services who is severely injured and medically discharged or retired, but only for a period of one year after the medical discharge or retirement of the parent or guardian; or
- (3) A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty, but only for a period of one year after death.

For purposes of this sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days. Assignment under this sub-subdivision is only available if some evidence of the deployment is tendered with the affidavits required under subdivision (3) of this subsection."

SECTION 3. It is the goal of the General Assembly to ensure that low-wealth schools are enabled to administer and comply with the requirements of the Interstate Compact on Educational Opportunity for Military Children. It is the intent of the General Assembly to appropriate funds in the sum of twenty-five thousand dollars (\$25,000) annually to the Department of Public Instruction to offset costs for low-wealth schools for administration of the Interstate Compact on Educational Opportunity for Military Children, beginning with the 2009-2010 school year or the enactment of the compact, whichever occurs later.

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 12:05 p.m. on the 7th day of August, 2008.

Session Law 2008-186

H.B. 2785

AN ACT TO ALLOW THE STATE TO ACQUIRE LOCKS AND DAMS ONE, TWO, AND THREE ON THE CAPE FEAR RIVER FROM THE UNITED STATES.

Whereas, locks and dams #1, #2, and #3 on the Cape Fear River were constructed by the United States in the period from 1915 to 1935; and

Whereas, it is understood that the Congress some time ago authorized a mission for the Army Corps of Engineers related to the locks and dams in Bladen County that hinged on maintaining commerce through the locks on the Cape Fear River; and there has been no commercial traffic on the Cape Fear River in about twelve years, and there may be no federal role in the maintenance of the locks and dams #2 and #3; and

Whereas, the Army Corps of Engineers is engaged in planning and implementing extensive work in the Wilmington Harbor area. The work has and will involve dredging, blasting, facility relocation, and related activities. In order to be allowed to do the work, the Army Corps of Engineers is working through a commitment to the U.S. Fish and Wildlife Service that involves mitigation activities to compensate for the projected negative environmental impacts on wildlife habitat and other environmental features in the harbor area as a result of the Corps' work to improve the harbor for commerce; and

Whereas, as part of the mitigation negotiated, the U.S. Army Corps of Engineers has committed to construction of a fish passage option (not yet completely defined) for Lock and Dam #1 (just upriver from the Wilmington Harbor area in Bladen County) and the "study" of fish passage options and other issues related to Lock and Dam #2 and the Huske Lock and Dam #3 (both also in Bladen County); and

Whereas, leaving Lock and Dam #1 in place with a rock arch rapids structure would also protect the water supply intakes for the City of Wilmington and the Lower Cape Fear Water and Sewer Authority; and

Whereas, there is concern upriver in Bladen, Cumberland, and Harnett Counties (and to a lesser degree, Sampson, Lee, Chatham, and Moore Counties) that the Army Corps of Engineers is only committed to "study" the second and the third lock and dam complexes. An implication of the Army Corps of Engineers' "study" commitment is that there is currently no funding for any specific recommended activity for locks and dams #2 and #3 that might become identified by the negotiated study. A more basic concern is that there could possibly be no definitive plan or action recommended to leave the locks and dams #2 and #3 in place in the mentioned study; and

Whereas, the nature of the concerns in Bladen, Cumberland, Harnett, and other counties touches on at least three points: (i) a rock arch rapids "fish ladder" on only Lock and Dam #1 does not allow migrating fish to get past locks and dams #2 or #3; (ii) absence of locks and dams #2 and #3 jeopardizes existing and/or potential water supply intakes above those two locks and dams; and (iii) absence of locks and dams #2 and #3 would lower the river surface by upwards of 20 feet and potentially compromise water quality in the middle and lower subbasins of the Cape Fear River; and

Whereas, preliminary legislative steps are being initiated to create an opportunity for a smooth transition of ownership of the locks, dams, and adjoining property from the Army Corps of Engineers to the State of North Carolina, subject to the resolution of these and some other questions regarding the condition of the lock and

dam complexes. Such a step would allow for the maximum utilization of the transportation benefit represented by the locks and the recreational benefit created by a river managed by the dams; and

Whereas, there is a proposed water supply intake behind Lock and Dam #2 that would serve Smithfield Packing. There are existing water supply intakes behind Lock and Dam #3 serving DuPont Works and the City of Fayetteville, and it is critical that these and other future water supply intakes be protected for the significant human populations in the region; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The State of North Carolina may accept from the United States locks and dams #1, #2, and #3 on the Cape Fear River, along with all adjacent lands currently owned by the United States, after the three locks and dams have been properly refurbished and the rock arch rapids fish ladders have been successfully constructed.

SECTION 2. The Secretary of Transportation, in consultation with the Board of Commissioners of Bladen County, shall negotiate the transfer from the United States. When the Secretary of Transportation reaches an acceptable agreement with the United States, he shall recommend its approval to the Council of State. The agreement is then subject to approval by the Council of State. Upon approval, as part of a successful transfer arrangement with the United States, the Council of State shall allocate the property to the Department of Transportation, the Department of Environment and Natural Resources, or such other State department as it deems appropriate.

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, 2008.

Became law upon approval of the Governor at 5:07 p.m. on the 7th day of August, 2008.

Session Law 2008-187

S.B. 1632

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS REQUESTED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER TECHNICAL CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CHANGES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

SECTION 1. G.S. 1-75.4(6) reads as rewritten:

"(6) Local Property. – In any action which arises out of:

- a. A promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to create in either party an interest in, or protect, acquire, dispose of, use, rent, own, control or possess by either party real property situated in this State; or
- b. A claim to recover for any benefit derived by the defendant through the use, ownership, control or possession by the

defendant of tangible property situated within this State either at the time of the first use, ownership, control or possession or at the time the action is commenced; or

- c. A claim that the defendant return, restore, or account to the plaintiff for any asset or thing of value which was within this State at the time the defendant acquired possession or control over it; or
- d. A claim related to a loan made in this State or deemed to have been made in this State under G.S. 24-2.1, regardless of the situs of the lender, assignee, or other holder of the loan note and regardless of whether the loan payment or fee is received through a loan servicer, provided that: (i) the loan was made to a borrower who is a resident of this State, (ii) the loan is incurred by the borrower primarily for personal, family, or household purposes, and (iii) the loan is secured by a mortgage or deed of trust on real property situated in this State upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families."

SECTION 2. G.S. 7A-177(b) reads as rewritten:

"(b) In addition to the basic training course required ~~in~~ under subsection (a) of this section, continuing education courses shall be provided at such times and locations as necessary to assure that they are conveniently available to all magistrates without extensive travel to other parts of the State."

SECTION 3. G.S. 7A-498.8(b) reads as rewritten:

"(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including:

- (1) Representing indigent persons subsequent to conviction in trial courts. The Office of Indigent Defense Services may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to ensure quality criminal defense services by the appellate defender's office, assign appeals, or authorize the appellate defender to assign appeals, to a local public defender's office or to private assigned counsel.
- (2) Maintaining a clearinghouse of materials and a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.
- (3) Providing continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal cases, including capital cases, as resources are available.
- (4) Providing consulting services to attorneys representing defendants in capital cases.
- (5) Recruiting qualified members of the private bar who are willing to provide representation in State and federal death penalty postconviction proceedings.
- (6) In the appellate defender's discretion, serving as counsel of record for indigent defendants in capital cases in State court.
- (6a) In the appellate defender's discretion, serving as counsel of record for indigent defendants in the United States Supreme Court pursuant to a

petition for writ of certiorari of the decision on direct appeal by a court of the North Carolina Appellate Division.

- (7) Undertaking other direct representation and consultation in capital cases pending in federal court only to the extent that such work is fully federally funded."

SECTION 4. G.S. 7A-796(19) reads as rewritten:

"(19) ~~The local program director provided for in G.S. 7A-798; and~~ Any local drug treatment coordinator; and".

SECTION 5. G.S. 14-208.41(b) reads as rewritten:

"(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant to G.S. 14-208.40A or ~~required by the Department pursuant to G.S. 14-208.40B~~ to enroll in a satellite-based monitoring program shall do so with the Division of Community Corrections office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the period of time ordered by the ~~court or the period of time specified by the Department.~~ court."

SECTION 6. G.S. 18B-902(h) reads as rewritten:

"(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises."

SECTION 7. G.S. 18B-903(b2) reads as rewritten:

"(b2) Recycling Plan Required. – Each person holding an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall submit, along with the annual registration or renewal application, a current plan for the collection and recycling of all recyclable beverage containers of all beverages sold at retail on the premises."

SECTION 8. G.S. 19A-62(c) reads as rewritten:

"(c) Report. – In February of each year, the Department must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report must contain information regarding all revenues and expenditures of the Spay/Neuter Account."

SECTION 9. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which ~~he~~ the person has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which ~~his~~ the person's license is being revoked, or (ii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a4), the revocation is permanent. ~~The~~

(e1) Notwithstanding subsection (e) of this section, the Division may, however, may conditionally restore the person's license of a person to whom subsection (e) applies after it has been revoked for at least three years under this subsection (e) if he the person provides the Division with satisfactory proof that of all of the following:

- (1) In the three years immediately preceding the person's application for a restored license, ~~he~~ the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or ~~drugs;~~ and drugs.

- (2) ~~He~~The person is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance.

(e2) Notwithstanding subsection (e) of this section, the~~The~~ Division may conditionally restore the ~~person's~~license of a person to whom subsection (e) applies after it has been revoked for at least 24 months under G.S. 20-17(a)(2) if the person provides the Division with satisfactory proof ~~that~~of all of the following:

- (1) ~~He~~The person has not consumed any alcohol for the 12 months preceding the restoration while being monitored by a continuous alcohol monitoring device of a type approved by the Department of Correction.
- (2) ~~He~~The person has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs.
- (3) ~~He~~ The person is not currently an excessive user of drugs or prescription drugs.
- (4) ~~He~~The person is not unlawfully using any controlled substance.

(e3) If the Division restores ~~the~~a person's license, license under subsection (e1) or (e2) of this section, it may place reasonable conditions or restrictions on the person for any period up to five years from the date of restoration."

SECTION 10. G.S. 20-38.7(d) reads as rewritten:

"(d) Following a new sentencing hearing in district court pursuant to subsection (c) of this section, a defendant has a right of appeal to the superior court only if:

- (1) The sentence is based upon additional facts considered by the district court that were not considered in the previously vacated ~~judgment,~~sentence, and
- (2) The defendant would be entitled to a jury determination of those facts pursuant to G.S. 20-179.

A defendant who has a right of appeal under this subsection, gives notice of appeal, and subsequently withdraws the appeal shall have the sentence imposed by the district court reinstated by the district court as a final judgment that is not subject to further appeal."

SECTION 11. G.S. 20-171.21 reads as rewritten:

"§ 20-171.21. **Penalties.**

Any person violating any of the provisions of this Part shall be responsible for an infraction and may be subject to a ~~fine~~penalty of not more than two hundred dollars (\$200.00)."

SECTION 12. G.S. 58-24-185(a) reads as rewritten:

- "(a) Nothing contained in this Article shall be so construed as to affect or apply to:
- (1) Grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;
- (2) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;
- (3) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation

which provide for a death benefit of not more than five hundred dollars (\$500.00) or disability benefits of not more than three hundred fifty dollars (\$350.00) to any person in any one year, or both;

- (4) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than five hundred dollars (\$500.00) or for disability benefits of not more than three hundred fifty dollars (\$350.00) to any one person in any one year, or both; or
- (5) An association of local lodges of a society now doing business in this State which provides death benefits not exceeding five hundred dollars (\$500.00) to any one person, provided, that the Commissioner may authorize the payment of death benefits not exceeding three thousand dollars (\$3,000) to any one person, or may authorize disability benefits not exceeding three hundred dollars (\$300.00), or may authorize both payments, in any one year to any one ~~person~~person; or

...."

SECTION 13. G.S. 58-84-35(6) reads as rewritten:

"(6) To provide for educational benefits to firemen and their dependents who otherwise qualify for benefits from the ~~Firemen's Relief Fund~~ Firefighters' Relief Fund as set forth in Article 85 of this Chapter."

SECTION 14. G.S. 90-18.5(b) reads as rewritten:

"(b) Anesthesiologist assistants are authorized to provide anesthesia services under the supervision of an anesthesiologist licensed under Article 1 of this Chapter under the following conditions:

- (1) The North Carolina Medical Board has adopted rules governing the provision of anesthesia services by an anesthesiologist assistant consistent with the requirements of subsection (c) of this section.
- (2) The anesthesiologist assistant holds a current license issued by the Board or is a student anesthesiologist assistant participating in a training program leading to certification by the National Commission for Certification of Anesthesiologist Assistants and licensure as an anesthesiologist assistant under ~~G.S. 90-11(a1)~~G.S. 90-9.4."

SECTION 15. G.S. 105-163.9 reads as rewritten:

"§ 105-163.9. (Effective January 1, 2008) Refund of overpayment to withholding agent.

A withholding agent who pays the Secretary more under this Article than the Article requires the agent to pay may obtain a refund of the overpayment by filing a request for a refund with the Secretary. No refund is allowed, however, if the withholding agent withheld the amount of the overpayment from the wages or compensation of the agent's employees or contractors. A withholding agent must file a request for a refund within the time period set in ~~G.S.~~G.S. 105-241.6. Interest accrues on a refund as provided in G.S. 105-241.21."

SECTION 16. G.S. 105-249.2(b) reads as rewritten:

"(b) Disaster. – The penalties in ~~G.S. 105-236(2), (3), and (4)~~ G.S. 105-236(a)(2), (3), and (4) may not be assessed for any period in which the time for filing a federal return or report or for paying a federal tax is extended under section 7508A of the Code because of a presidentially declared disaster. For the purpose of this section, "presidentially declared disaster" has the same meaning as in section 1033(h)(3) of the Code."

SECTION 17. G.S. 108A-25.2 reads as rewritten:**"§ 108A-25.2. Exemption from limitations for individuals convicted of certain drug-related felonies.**

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

- (1) Six months after release from custody if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority; or
- (2) If not committed to custody, six months after the date of conviction if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority.

A county department of social services shall require individuals who are eligible for Work First Program assistance and electronic food and nutrition benefits pursuant to this section to undergo substance abuse treatment as a condition for receiving Work First Program or electronic food and nutrition benefits, if funds and programs are available and to the extent allowed by federal law."

SECTION 18. G.S. 108A-53(a) reads as rewritten:

"(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any electronic food and nutrition benefit to which that person is not entitled in the amount of four hundred dollars (\$400.00) or less shall be guilty of a Class 1 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any electronic food and nutrition benefit to which he is not entitled in an amount more than four hundred dollars (\$400.00) shall be guilty of a Class I felony."

SECTION 19. G.S. 115C-366(a3)(1) reads as rewritten:

"(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if all of the following apply:

- (1) The student resides with an adult, who is a domiciliary of that unit, as a result of any one of the following:
 - a. The death, serious illness, or incarceration of a parent or legal guardian,
 - b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,
 - c. Abuse or neglect by the parent or legal guardian,

- d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student,
- e. The relinquishment of physical custody and control of the student by the student's parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health, ~~or~~
- f. The loss or uninhabitability of the student's home as the result of a natural disaster, or
- g. The parent or legal guardian is on active military duty and is deployed out of the local school administrative unit in which the student resides. For purposes of this sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days. Assignment under this sub-subdivision is only available if some evidence of the deployment is tendered with the affidavits required under subdivision (3) of this subsection."

SECTION 20. G.S. 120-103.1(i)(3)b. reads as rewritten:

- "b. The hearing shall be ~~legislator~~ open to the public, except for matters that could otherwise be considered in closed session under G.S. 143-318.11, matters involving minors, or matters involving a personnel record. In any event, the deliberations by the Commission on a complaint may be held in closed session."

SECTION 21. G.S. 138A-12(f) reads as rewritten:

"(f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission determines at the end of its preliminary inquiry that (i) the individual who is the subject of the complaint is not a covered person or legislative employee subject to the Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does not allege facts sufficient to constitute a violation within the jurisdiction of the Commission under subsection (b) ~~if~~ of this section, the Commission shall dismiss the complaint."

SECTION 22. G.S. 143-652.2(g) reads as rewritten:

"(g) Initial appointments to the Commission under this ~~re-enacted~~ section shall be for terms commencing July 1, 2007."

SECTION 23. G.S. 143-722(b) reads as rewritten:

"(b) Any non-State entity as that term is defined in G.S. 143C-1-1 that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of ~~G.S. 143-6-14~~ G.S. 143C-6-14."

SECTION 24. G.S. 143A-44.1 reads as rewritten:

"§ **143A-44.1. Creation.**

There is hereby created a Department of Public Instruction. The head of the Department of Public Instruction is the State Board of Education. Any provision of G.S. 143A-9 to the contrary notwithstanding, the appointment of the State Board of Education shall be as prescribed in ~~Article IV, Section 4(1)~~ Article IX, Section (4)(1) of the Constitution."

SECTION 25. G.S. 143B-139.5B reads as rewritten:

"§ 143B-139.5B. Department of Health and Human Services – provision for joint training.

The Department of Health and Human Services shall offer joint training of Division of Health Service Regulation consultants, county DSS adult home specialists, and adult care home providers. The training shall be offered no fewer than two times per year, and subject matter of the training should be based on one or more of the 10 deficiencies cited most frequently in the State during the immediately preceding calendar year. The joint training shall be designed to reduce inconsistencies experienced by providers in the survey process, to increase objectivity by ~~DFS-DHSR~~ consultants and DSS specialists in conducting surveys, and to promote a higher degree of understanding between facility staff and ~~DFS-DHSR~~ consultants and DSS specialists in what is expected during the survey process."

SECTION 26.(a) G.S. 143B-437.11 is recodified as G.S. 143B-437.012.

SECTION 26.(b) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(18) The Department of Commerce and the Economic Investment Committee in developing criteria and administering the Job Maintenance and Capital Development Fund under ~~G.S. 143B-437.11~~.G.S. 143B-437.012."

SECTION 27. G.S. 143D-8 reads as rewritten:

"§ 143D-8. Internet-Internal control documentation.

Each State agency shall maintain documentation, as prescribed by the State Controller, of the system of internal control within that agency. All internal control documentation shall be available upon request for examination by the State Controller and the State Auditor."

SECTION 28. G.S. 147-86.30(c) reads as rewritten:

"(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 S.L. 2004-124. 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%).

~~G.S. 143C-9-3"~~

SECTION 29. G.S. 163-278.27(a1) reads as rewritten:

"(a1) A violation of ~~G.S. 278.32~~–G.S. 163-278.32 by making a certification knowing the information to be untrue is a Class I felony."

SECTION 30. The introductory language of Section 3 of S.L. 2007-177 reads as rewritten:

~~"SECTION 3. G.S. 122C-430.30~~G.S. 122C-430 reads as rewritten:".

SECTION 31. The introductory language of Section 2 of S.L. 2007-318 reads as rewritten:

~~"SECTION 2. G.S. 105-153A-155(g)~~G.S. 153A-155(g) reads as rewritten:".

SECTION 32. Section 44 of S.L. 2007-348 reads as rewritten:

"**SECTION 44.** Sections 17, 23, 39, 40 and 41 of this act are effective January 1, 2007. Section 9 of this act is effective July 1, 2007. Sections 8, 11, 15, 20, 22, 25, 34 and 42 of this act become effective October 1, 2007. Section 18 of this act becomes effective December 1, 2007. Section 34 of this act becomes effective January 1, 2008. The remainder of this act is effective when this act becomes law."

SECTION 33.(a) Section 1(c) of S.L. 2007-391 reads as rewritten:

"**SECTION 1.(c)** ~~This act~~ section becomes effective December 1, 2007, and applies to offenses committed on or after that date."

SECTION 33.(b) Section 6(f) of S.L. 2007-391 reads as rewritten:

"**SECTION 6.(f)** ~~Subsections 7(b) through 7(e) of~~ Subsections 6(b) through 6(e) of this section become effective January 1, 2008. The remainder of this section is effective when this act becomes law."

PART II. OTHER CHANGES

SECTION 34.(a) G.S. 14-71(b) reads as rewritten:

"(b) If a person knowingly receives or possesses property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency or a person authorized to act on behalf of a law enforcement agency as stolen, the person is guilty of a Class H felony and may be indicted, tried, and punished in any county in which the person received or possessed the property."

SECTION 34.(b) G.S. 14-72.11 reads as rewritten:

"§ 14-72.11. Larceny from a merchant.

A person is guilty of a Class H felony if the person commits larceny against a merchant under any of the following circumstances:

- (1) If the property taken has a value of more than two hundred dollars (\$200.00), by using an exit door erected and maintained to comply with the requirements of ~~29 C.F.R. § 1910 Subpart E, 29 C.F.R. § 1910.36 and 29 C.F.R. § 1910.37~~ upon which door has been placed a notice, sign, or poster providing information about the felony offense and punishment provided under this subsection, to exit the premises of a store.
- (2) By removing, destroying, or deactivating a component of an antishoplifting or inventory control device to prevent the activation of any antishoplifting or inventory control device.
- (3) By affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.
- (4) When the property is infant formula valued in excess of one hundred dollars (\$100.00). As used in this subsection, the term "infant formula," has the same meaning as found in 21 U.S.C. § 321(z)."

SECTION 34.(c) G.S. 14-86.6 reads as rewritten:

"§ 14-86.6. Organized retail theft.

(a) A person is guilty of a Class H felony if the person:

- (1) Conspires with another person to commit theft of retail property from a retail ~~establishment, establishments,~~ with a value exceeding one thousand five hundred dollars (\$1,500) aggregated over a 90-day period, with the intent to sell that retail property for monetary or other gain, and who takes or causes that retail property to be placed in the control of a retail property fence or other person in exchange for consideration.

(2) Receives or possesses any retail property that has been taken or stolen in violation of subdivision (1) of this subsection while knowing or having reasonable grounds to believe the property is stolen.

(b) Any interest a person has acquired or maintained in violation of this section shall be subject to forfeiture pursuant to the procedures for forfeiture set out in G.S. 18B-504."

SECTION 35. G.S. 15A-145(a) 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~~ than: (i) two years after the date of the ~~conviction~~ conviction, or (ii) the completion of 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."

SECTION 35.5. G.S. 18B-1006.1 reads as rewritten:

"§ **18B-1006.1. Additional requirement for certain permittees to recycle beverage containers.**

Holders of on-premises malt beverage permits, on-premises unfortified wine permits, on-premises fortified wine permits, and mixed beverages permits shall separate, store, and provide for the collection for recycling of all recyclable beverage containers of all beverages sold at retail on the premises. A permittee has satisfied the requirements of this section if it implements a recycling program that meets the minimum standards of the model recycling program developed by the Commission pursuant to G.S. 130A-309.14(m). Failure to comply with the requirements of this section shall not be grounds for revocation of a permit. A conviction for violation of this section shall not constitute an alcoholic beverage offense within the meaning of G.S. 18B-900(a)(4)."

SECTION 36.(a) G.S. 20-138.2A(b2) reads as rewritten:

"(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the ~~Commission for Public Health,~~ Department of Health and Human Services, and the screening test is conducted in accordance with the applicable regulations of the ~~Commission-Department~~ as to its manner and use."

SECTION 36.(b) G.S. 20-138.2B(b2) reads as rewritten:

"(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the ~~Commission for Public Health,~~ Department of Health and Human Services, and the screening test is conducted in accordance with the applicable regulations of the ~~Commission-Department~~ as to its manner and use."

SECTION 36.(c) G.S. 20-179.3(j) reads as rewritten:

"(j) Effect of Violation of Restriction. – A holder of a limited driving privilege who violates any of its restrictions commits the offense of driving while his license is revoked under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that section. If a law-enforcement officer has reasonable grounds to believe that the holder of a limited driving privilege has consumed alcohol while driving or has driven while he has remaining in his body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a holder of a limited driving privilege is charged with driving while license revoked by violating a restriction contained in his limited driving privilege, and a judicial official determines that there is probable cause for the charge, the limited driving privilege is suspended pending the resolution of the case, and the judicial official must require the holder to surrender the

limited driving privilege. The judicial official must also notify the holder that he is not entitled to drive until his case is resolved.

Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violating this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the ~~Commission for Public Health~~, Department of Health and Human Services, and the screening test is conducted in accordance with the applicable regulations of the ~~Commission-Department~~ as to the manner of its use."

SECTION 37.(a) G.S. 32A-25.1 reads as rewritten:

"§ 32A-25.1. **Statutory form health care power of attorney.**

(a) The use of the following form in the creation of a health care power of attorney is lawful and, when used, it shall meet the requirements of and be construed in accordance with the provisions of this Article:

HEALTH CARE POWER OF ATTORNEY

NOTE: YOU SHOULD USE THIS DOCUMENT TO NAME A PERSON AS YOUR HEALTH CARE AGENT IF YOU ARE COMFORTABLE GIVING THAT PERSON BROAD AND SWEEPING POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A HEALTH CARE POWER OF ATTORNEY.

***EXPLANATION:** You have the right to name someone to make health care decisions for you when you cannot make or communicate those decisions. This form may be used to create a health care power of attorney, and meets the requirements of North Carolina law. However, you are not required to use this form, and North Carolina law allows the use of other forms that meet certain requirements. If you prepare your own health care power of attorney, you should be very careful to make sure it is consistent with North Carolina law.*

*This document gives the person you designate as your health care agent **broad powers** to make health care decisions for you when you cannot make the decision yourself or cannot communicate your decision to other people. You should discuss your wishes concerning life-prolonging measures, mental health treatment, and other health care decisions with your health care agent. Except to the extent that you express specific limitations or restrictions in this form, your health care agent may make any health care decision you could make yourself.*

This form does not impose a duty on your health care agent to exercise granted powers, but when a power is exercised, your health care agent will be obligated to use due care to act in your best interests and in accordance with this document.

This Health Care Power of Attorney form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.

*If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary public are present to watch you sign it. You then should give a copy to your health care agent and to any alternates you name. You should consider filing it with the Advance Health Care Directive Registry maintained by the North Carolina Secretary of State: <http://www.nclifelinks.org/ahcdr/>*

1. Designation of Health Care Agent.

I, _____, being of sound mind, hereby appoint the following person(s) to serve as my health care agent(s) to act for me and in my name (in any way I could act in person) to make health care decisions for me as authorized in this document. My designated health care agent(s) shall serve alone, in the order named.

A. Name: _____	Home Telephone: _____
Home Address: _____	Work Telephone: _____
_____	Cellular Telephone: _____

B. Name: _____	Home Telephone: _____
Home Address: _____	Work Telephone: _____
_____	Cellular Telephone: _____

C. Name: _____	Home Telephone: _____
Home Address: _____	Work Telephone: _____
_____	Cellular Telephone: _____

Any successor health care agent designated shall be vested with the same power and duties as if originally named as my health care agent, and shall serve any time his or her predecessor is not reasonably available or is unwilling or unable to serve in that capacity.

2. Effectiveness of Appointment.

My designation of a health care agent expires only when I revoke it. Absent revocation, the authority granted in this document shall become effective when and if one of the physician(s) listed below determines that I lack capacity to make or communicate decisions relating to my health care, and will continue in effect during that incapacity, or until my death, except if I authorize my health care agent to exercise my rights with respect to anatomical gifts, autopsy, or disposition of my remains, this authority will continue after my death to the extent necessary to exercise that authority.

1. _____ (Physician)
2. _____ (Physician)

If I have not designated a physician, or no physician(s) named above is reasonably available, the determination that I lack capacity to make or communicate decisions relating to my health care shall be made by my attending physician.

3. Revocation.

Any time while I am competent, I may revoke this power of attorney in a writing I sign or by communicating my intent to revoke, in any clear and consistent manner, to my health care agent or my health care provider.

4. General Statement of Authority Granted.

Subject to any restrictions set forth in Section 65 below, I grant to my health care agent full power and authority to make and carry out all health care decisions for me. These decisions include, but are not limited to:

- A. Requesting, reviewing, and receiving any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records, and to consent to the disclosure of this information.
- B. Employing or discharging my health care providers.
- C. Consenting to and authorizing my admission to and discharge from a hospital, nursing or convalescent home, hospice, long-term care facility, or other health care facility.
- D. Consenting to and authorizing my admission to and retention in a facility for the care or treatment of mental illness.
- E. Consenting to and authorizing the administration of medications for mental health treatment and electroconvulsive treatment (ECT) commonly referred to as "shock treatment."
- F. Giving consent for, withdrawing consent for, or withholding consent for, X-ray, anesthesia, medication, surgery, and all other diagnostic and treatment procedures ordered by or under the authorization of a licensed physician, dentist, podiatrist, or other health care provider. This authorization specifically includes the power to consent to measures for relief of pain.
- G. Authorizing the withholding or withdrawal of life-prolonging measures.
- H. Providing my medical information at the request of any individual acting as my attorney-in-fact under a durable power of attorney or as a Trustee or successor Trustee under any Trust Agreement of which I am a Grantor or Trustee, or at the request of any other individual whom my health care agent believes should have such information. I desire

that such information be provided whenever it would expedite the prompt and proper handling of my affairs or the affairs of any person or entity for which I have some responsibility. In addition, I authorize my health care agent to take any and all legal steps necessary to ensure compliance with my instructions providing access to my protected health information. Such steps shall include resorting to any and all legal procedures in and out of courts as may be necessary to enforce my rights under the law and shall include attempting to recover attorneys' fees against anyone who does not comply with this health care power of attorney.

- I. To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, exercising any right I may have to authorize an autopsy or direct the disposition of my remains.
- J. Taking any lawful actions that may be necessary to carry out these decisions, including, but not limited to: (i) signing, executing, delivering, and acknowledging any agreement, release, authorization, or other document that may be necessary, desirable, convenient, or proper in order to exercise and carry out any of these powers; (ii) granting releases of liability to medical providers or others; and (iii) incurring reasonable costs on my behalf related to exercising these powers, provided that this health care power of attorney shall not give my health care agent general authority over my property or financial affairs.

5. Special Provisions and Limitations.

(Notice: The authority granted in this document is intended to be as broad as possible so that your health care agent will have authority to make any decisions you could make to obtain or terminate any type of health care treatment or service. If you wish to limit the scope of your health care agent's powers, you may do so in this section. If none of the following are initialed, there will be no special limitations on your agent's authority.)

A. Limitations about Artificial Nutrition or Hydration: In exercising the authority to make health care decisions on my behalf, my health care agent:

(Initial)

shall NOT have the authority to withhold artificial nutrition (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

(Initial)

shall NOT have the authority to withhold artificial hydration (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

NOTE: If you initial either block but do not insert any special provisions, your health care agent shall have NO AUTHORITY to withhold artificial nutrition or hydration.

(Initial)

- B. Limitations Concerning Health Care Decisions. In exercising the authority to make health care decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: your own definition of when life-prolonging measures should be withheld or discontinued, or instructions to refuse any specific types of treatment that are inconsistent with your religious beliefs, or are unacceptable to you for any other reason.)
-

NOTE: DO NOT initial unless you insert a limitation.

(Initial)

- C. Limitations Concerning Mental Health Decisions. In exercising the authority to make mental health decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: limiting the grant of authority to make only mental health treatment decisions, your own instructions regarding the administration or withholding of psychotropic medications and electroconvulsive treatment (ECT), instructions regarding your admission to and retention in a health care facility for mental health treatment, or instructions to refuse any specific types of treatment that are unacceptable to you.)
-

NOTE: DO NOT initial unless you insert a limitation.

(Initial)

- D. Advance Instruction for Mental Health Treatment. (Notice: This health care power of attorney may incorporate or be combined with an advance instruction for mental health treatment, executed in accordance with Part 2 of Article 3 of Chapter 122C of the General Statutes, which you may use to state your instructions regarding mental health treatment in the event you lack capacity to make or communicate mental health treatment decisions. Because your health care agent's decisions must be consistent with any statements you have expressed in an advance instruction, you should indicate here whether you have executed an advance instruction for mental health treatment):
-

NOTE: DO NOT initial unless you insert a limitation.

(Initial) E. Autopsy and Disposition of Remains. In exercising the authority to make decisions regarding autopsy and disposition of remains on my behalf, the authority of my health care agent is subject to the following special provisions and limitations. (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding burial or cremation):

NOTE: DO NOT initial unless you insert a limitation.

6. Organ Donation.

To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, my health care agent may exercise any right I may have to:

(Initial) donate any needed organs or parts; or

(Initial) donate only the following organs or parts:

NOTE: DO NOT INITIAL BOTH BLOCKS ABOVE.

(Initial) donate my body for anatomical study if needed.

(Initial) In exercising the authority to make donations, my health care agent is subject to the following special provisions and limitations: (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding gifts of the body or body parts.)

NOTE: DO NOT initial unless you insert a limitation.

NOTE: NO AUTHORITY FOR ORGAN DONATION IS GRANTED IN THIS INSTRUMENT WITHOUT YOUR INITIALS.

7. Guardianship Provision.

If it becomes necessary for a court to appoint a guardian of my person, I nominate the persons designated in Section 1, in the order named, to be the guardian of my person, to

serve without bond or security. The guardian shall act consistently with G.S. 35A-1201(a)(5).

8. Reliance of Third Parties on Health Care Agent.

- A. No person who relies in good faith upon the authority of or any representations by my health care agent shall be liable to me, my estate, my heirs, successors, assigns, or personal representatives, for actions or omissions in reliance on that authority or those representations.
- B. The powers conferred on my health care agent by this document may be exercised by my health care agent alone, and my health care agent's signature or action taken under the authority granted in this document may be accepted by persons as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf. All acts performed in good faith by my health care agent pursuant to this power of attorney are done with my consent and shall have the same validity and effect as if I were present and exercised the powers myself, and shall inure to the benefit of and bind me, my estate, my heirs, successors, assigns, and personal representatives. The authority of my health care agent pursuant to this power of attorney shall be superior to and binding upon my family, relatives, friends, and others.

9. Miscellaneous Provisions.

- A. **Revocation of Prior Powers of Attorney.** I revoke any prior health care power of attorney. The preceding sentence is not intended to revoke any general powers of attorney, some of the provisions of which may relate to health care; however, this power of attorney shall take precedence over any health care provisions in any valid general power of attorney I have not revoked.
- B. **Jurisdiction, Severability, and Durability.** This Health Care Power of Attorney is intended to be valid in any jurisdiction in which it is presented. The powers delegated under this power of attorney are severable, so that the invalidity of one or more powers shall not affect any others. This power of attorney shall not be affected or revoked by my incapacity or mental incompetence.
- C. **Health Care Agent Not Liable.** My health care agent and my health care agent's estate, heirs, successors, and assigns are hereby released and forever discharged by me, my estate, my heirs, successors, assigns, and personal representatives from all liability and from all claims or demands of all kinds arising out of my health care agent's acts or omissions, except for my health care agent's willful misconduct or gross negligence.

- D. No Civil or Criminal Liability. No act or omission of my health care agent, or of any other person, entity, institution, or facility acting in good faith in reliance on the authority of my health care agent pursuant to this Health Care Power of Attorney shall be considered suicide, nor the cause of my death for any civil or criminal purposes, nor shall it be considered unprofessional conduct or as lack of professional competence. Any person, entity, institution, or facility against whom criminal or civil liability is asserted because of conduct authorized by this Health Care Power of Attorney may interpose this document as a defense.

- E. Reimbursement. My health care agent shall be entitled to reimbursement for all reasonable expenses incurred as a result of carrying out any provision of this directive.

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full import of this grant of powers to my health care agent.

This the _____ day of _____, 20_____.

_____(SEAL)

I hereby state that the principal, _____, being of sound mind, signed (or directed another to sign on the principal's behalf) the foregoing health care power of attorney in my presence, and that I am not related to the principal by blood or marriage, and I would not be entitled to any portion of the estate of the principal under any existing will or codicil of the principal or as an heir under the Intestate Succession Act, if the principal died on this date without a will. I also state that I am not the principal's attending physician, nor a licensed health care provider or mental health treatment provider who is (1) an employee of the principal's attending physician or mental health treatment provider, (2) an employee of the health facility in which the principal is a patient, or (3) an employee of a nursing home or any adult care home where the principal resides. I further state that I do not have any claim against the principal or the estate of the principal.

Date: _____ Witness: _____

Date: _____ Witness: _____

_____ COUNTY, _____ STATE

Sworn to (or affirmed) and subscribed before me this day by _____
(type/print name of signer)

(type/print name of witness)

*(type/print name of witness)*Date: _____
*(Official Seal)*_____
*Signature of Notary Public*_____, Notary Public
Printed or typed name

My commission expires: _____

(b) Use of the statutory form prescribed in this section is an optional and nonexclusive method for creating a health care power of attorney and does not affect the use of other forms of health care powers of attorney, including previous statutory forms."

SECTION 37.(b) G.S. 90-21.13(c) reads as rewritten:

"(c) The following persons, in the order indicated, are authorized to consent to medical treatment on behalf of a patient who is comatose or otherwise lacks capacity to make or communicate health care decisions:

- (1) A guardian of the patient's person, or a general guardian with powers over the patient's person, appointed by a court of competent jurisdiction pursuant to Article 5 of Chapter 35A of the General Statutes; provided that, if the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority to the extent granted in the health care power of attorney and to the extent provided in G.S. 32A-19(a) ~~G.S. 32A-19(b)~~ unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208(a);
- (2) A health care agent appointed pursuant to a valid health care power of attorney, to the extent of the authority granted;
- (3) An attorney-in-fact, with powers to make health care decisions for the patient, appointed by the patient pursuant to Article 1 or Article 2 of Chapter 32A of the General Statutes, to the extent of the authority granted;
- (4) The patient's spouse;
- (5) A majority of the patient's reasonably available parents and children who are at least 18 years of age;
- (6) A majority of the patient's reasonably available siblings who are at least 18 years of age; or
- (7) An individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes."

SECTION 37.(c) This section is effective when it becomes law. Nothing in this section shall affect the validity of a health care power of attorney executed before, on, or after the effective date of this section.

SECTION 38.(a) G.S. 58-55-35(a) reads as rewritten:

"(a) Whenever long-term care insurance provides coverage for the facilities, services, or physical or mental conditions listed below, unless otherwise defined in the

policy and certificate, and approved by the Commissioner, such facilities, services, or conditions are defined as follows:

- (1) "Adult care home" shall be defined in accordance with the terms of ~~G.S. 131D-2(a)(3)~~G.S. 131D-2(1b).
- (1a) "Adult day care program" shall be defined in accordance with the provisions of G.S. 131D-6(b).
- (2) "Chore" services include the performance of tasks incidental to activities of daily living that do not require the services of a trained homemaker or other specialist. Such services are provided to enable individuals to remain in their own homes and may include such services as: assistance in meeting basic care needs such as meal preparation; shopping for food and other necessities; running necessary errands; providing transportation to essential service facilities; care and cleaning of the house, grounds, clothing, and linens.
- (3) "Combination home" shall be defined in accordance with the terms of ~~G.S. 131E-101(1)~~G.S. 131E-101(1a).
- (4) Repealed by Session Laws 1995, c. 535, s. 3.
- (5) "Family care home" shall be defined in accordance with the terms of G.S. 131D-2(a)(5).
- (6) Renumbered.
- (7) Repealed by Session Laws 1995, c. 535, s. 3.
- (8) "Home health services" shall be defined in accordance with the terms of G.S. 131E-136(3).
- (9) "Homemaker services" means supportive services provided by qualified para-professionals who are trained, equipped, assigned, and supervised by professionals within the agency to help maintain, strengthen, and safeguard the care of the elderly in their own homes. These standards must, at a minimum, meet standards established by the North Carolina Division of Social Services and may include: Providing assistance in management of household budgets; planning nutritious meals; purchasing and preparing foods; housekeeping duties; consumer education; and basic personal and health care.
- (10) "Hospice" shall be defined in accordance with the terms of G.S. 131E-176(13a).
- (11) "Intermediate care ~~facility~~facility for the mentally retarded" shall be defined in accordance with the terms of ~~G.S. 131E-176(14b)~~G.S. 131E-176(14a).
- (12) "Nursing home" shall be defined in accordance with the terms of G.S. 131E-101(6).
- (13) "Respite care, institutional" means provision of temporary support to the primary caregiver of the aged, disabled, or handicapped individual by taking over the tasks of that person for a limited period of time. The insured receives care for the respite period in an institutional setting, such as a nursing home, family care home, rest home, or other appropriate setting.
- (14) "Respite care, non-institutional" means provision of temporary support to the primary caregiver of the aged, disabled, or handicapped individual by taking over the tasks of that person for a limited period

of time in the home of the insured or other appropriate community location.

- (15) "Skilled Nursing Facility" shall be defined in accordance with the terms of ~~G.S. 131E-176(23)~~. G.S. 135-40.1(18).
- (16) "Supervised living facility for developmentally disabled adults" means a residential facility, as defined in G.S. 122C-3(14), which has two to nine developmentally disabled adult residents."

SECTION 38.(b) G.S. 131E-231 reads as rewritten:

"§ 131E-231. Definitions.

As used in this Article, unless otherwise specified:

- (1) "Long-term care facility" means a nursing home as defined in G.S. 131E-101(6) and an adult care home as defined in ~~G.S. 131D-2(a)(3)~~ G.S. 131D-2(a)(1b) or ~~G.S. 131E-101(4)~~. G.S. 131E-101(4).
- (2) "Resident" means a person who has been admitted to a long-term care facility.
- (3) "Respondent" means the person or entity holding a license pursuant to G.S. 131E-102 or G.S. 131D-2 or a person or entity operating a long-term care facility subject to licensure without a license."

SECTION 40.(a) G.S. 90-270.69(8) reads as rewritten:

"The Board shall have the following powers and duties:

- ...
- (8) Establish reasonable fees for applications, ~~limited permits~~, initial and renewal licenses, and other services provided by the Board."

SECTION 40.(b) G.S. 90-270.73(d) is repealed.

SECTION 40.(c) G.S. 90-270.78(a) reads as rewritten:

"(a) It is unlawful for any person who is not licensed in accordance with this Article or whose license has been suspended, revoked or not renewed by the Board to:

- (1) Engage in the practice of occupational therapy.
- (2) Orally, in writing, in print or by sign, or in any other manner, directly or by implication, represent that he or she is engaging in occupational therapy.
- (3) Use in connection with his or her name or place of business the words "occupational therapist", "occupational therapy assistant", "occupational therapist ~~limited permittee~~", or "~~occupational therapy assistant limited permittee~~", or the letters "O.T.", "O.T./L.", "O.T.A.", "~~O.T.A./L.~~", "~~O.T./L.P.~~", or "~~O.T.A./L.P.~~" or "O.T.A./L." or any other words, letters, abbreviations or insignia indicating or implying that the person is an occupational therapist, ~~occupational therapy assistant, occupational therapist limited permittee, or occupational therapy assistant limited permittee, or occupational therapy assistant.~~"

SECTION 41. G.S. 90-285.1(2) reads as rewritten:

- "(2) Has violated the provisions of ~~Part B~~ Part 2 of Article 6 of Chapter 131E of the General Statutes and rules promulgated thereunder;"

SECTION 42. G.S. 105-164.4B(d)(2) reads as rewritten:

- "(2) Direct mail. – Direct mail that meets one of the conditions of this subdivision is sourced to the location where the property is delivered. In all other cases, direct mail is sourced in accordance with the principles set out in ~~subsection (a)~~ subdivision (a)(3) of this section.

- a. Direct mail purchased pursuant to a direct pay permit.
- b. When the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered."

SECTION 43. G.S. 115C-284 reads as rewritten:

"§ **115C-284. Method of selection and requirements.**

(a) Principals and supervisors shall be elected by the local boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) In the city administrative units, principals shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

(b1) To qualify for certification as a school administrator, an individual must meet all of the following requirements:

- (1) Submit a complete application to the State Board.
- (2) Pay the applicable fee.
- (3) Have a bachelor's degree from an accredited college or accredited university.
- (4) Have one of the following:
 - a. A graduate degree from a public school administration program that meets the public school administration program approval standards established by the State Board of Education.
 - b. A master's degree from an accredited college or accredited university and, by December 31, 1999, have completed a public school administration program that meets the public school administration program approval standards set by the State Board of Education.
 - c. Education and training determined by the State Board of Education as equivalent.
- (5) Pass the exam adopted by the State Board.

...."

SECTION 44. G.S. 138A-3(24) reads as rewritten:

"(24) Nonprofit corporation or organization with which associated. – Any not for profit corporation, organization, or association, 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 family is a director, officer, governing board member, employee, lobbyist registered ~~as~~ under Chapter 120C of the General Statutes, or independent contractor. Nonprofit corporation or organization with which associated shall not include any board, entity, or other organization created by this State or by any political subdivision of this State."

SECTION 44.5.(a) Section 4 of S.L. 2008-56 is repealed.

SECTION 44.5.(b) Section 7 of S.L. 2008-56 reads as rewritten:

"**SECTION 7.** The Governor's Crime Commission shall develop the criteria for eligibility for funds appropriated for gang prevention and intervention. The criteria shall include a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and presentation of a written plan for the services to be

provided by the funds. Funds shall be available to public and private entities or agencies for juvenile and adult programs that meet the criteria established by the Governor's Crime Commission. The Commission shall identify the cities and towns that do not have full-time parks and recreation staff, and provide targeted outreach and information to public and private agencies, and non-profit organizations, in those cities, towns, and unincorporated areas about their eligibility for these funds.

The Governor's Crime Commission shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 15, 2009, on this program. The report shall include all of the following:

- (1) The grant award process.
- (2) A description of each grant awarded.
- (3) The performance criteria for evaluating grant programs.
- (4) A list of State grants awarded in the 2008 grant cycle.

The Governor's Crime Commission shall review the level of gang activity throughout the State and assess the progress and accomplishments of the State, and of local governments, in preventing the proliferation of gangs and addressing the needs of juveniles who have been identified as being associated with gang activity.

The Governor's Crime Commission shall develop recommendations concerning the establishment of priorities and needed improvements with respect to gang prevention to the General Assembly on or before March 1 of each year."

SECTION 45. Section 2 of S.L. 2007-169 reads as rewritten:

"**SECTION 2.** Notwithstanding G.S. 143-52.1 and S.L. 2006-203, through ~~December 31, 2008, June 30, 2009,~~ the members of the Advisory Budget Commission in office on June 30, 2007, shall continue to be eligible for appointment to the Board of Awards, and vacancies may be filled by the appointing authority. Through ~~December 31, 2008, June 30, 2009,~~ the Secretary of Administration shall appoint the Board of Awards from among those eligible."

SECTION 45.5. If House Bill 15, 2007 Regular Session, becomes law, then Section 2 of that act is amended by deleting the following:

"**SECTION 26.21.(a)** G.S. 115C-302.1(d) reads as rewritten:"

SECTION 45.8. If House Bill 359, 2007 Regular Session, becomes law, G.S. 115C-47(51), as enacted by Section 3 of House Bill 359, reads as rewritten:

"(51) Assist with Student Voter Registration. – Local boards of education shall ensure that voter registration forms are distributed in a timely manner prior to the voter registration deadline for each primary and general election to all enrolled students 17 years of age and older, in compliance with G.S. 163-82.23. Local boards of education shall require that schools submit completed forms on the student applicant's behalf to the county board of elections and that schools report to the county board of elections by the twentieth day before a primary or election, the number of students who have received voter applications and the number of completed applications which have been submitted by the school."

SECTION 46. If House Bill 1003, 2007 Regular Session, becomes law, G.S. 15A-1344(f)(2), as enacted by House Bill 1003, reads as rewritten:

"(2) The court finds that the probationer did violate one or more conditions of probation prior to the expiration of the period of probation."

SECTION 47. If House Bill 1113, 2007 Regular Session, becomes law, then G.S. 143-299.1A(c), as enacted by House Bill 1113, reads as rewritten:

"(c) This section does not apply to a unit of local government or its officers, employees, or agents."

SECTION 47.3. If House Bill 1366 and Senate Bill 1541, 2007 Regular Session, both become law, then Article 29B of Chapter 115C of the General Statutes as enacted by House Bill 1366 is recodified as Article 29C of Chapter 115C of the General Statutes, G.S. 115C-407.5 through G.S. 115C-407.8 as enacted by that law are recodified as G.S. 115C-407.15 through G.S. 115C-407.18, and any cross-reference to those sections contained in House Bill 1366 shall be construed accordingly.

SECTION 47.5.(a) If House Bill 1770, 2007 Regular Session, becomes law, then G.S. 153A-210.2(b), as enacted by Section 2 of that bill, reads as rewritten:

"(b) Costs. – The board of commissioners must determine a project's total estimated cost. In addition to the costs allowed under G.S. 153A-193, the costs may include any expenses allowed under G.S. 159-84. ~~A preliminary assessment roll may be prepared, and an assessment may be imposed before the costs are incurred, based on the estimated cost.~~A preliminary assessment roll may be prepared before the costs are incurred based on the estimated cost of the project."

SECTION 47.5.(b) If House Bill 1770, 2007 Regular Session, becomes law, then G.S. 160A-239.2, as enacted by Section 3 of that bill, reads as rewritten:

"§ **160A-239.2. Assessments.**

(a) Projects. – The council of a city may make special assessments as provided in this Article against benefited property within the city for the purpose of financing the capital costs of projects for which bonds may be issued under any of the following:

- (1) G.S. 159-48(b)(17), sanitary sewer systems.
- (2) G.S. 159-48(b)(19), storm sewers and flood control facilities.
- (3) G.S. 159-48(b)(21), water systems.
- (4) G.S. 159-48(b)(23), public transportation facilities.
- (5) G.S. 159-48(c)(4), school facilities.
- (6) G.S. 159-48(d)(5), streets and sidewalks.

(b) Costs. – The city council must determine a project's total estimated cost. In addition to the costs allowed under G.S. 153A-193, the costs may include any expenses allowed under G.S. 159-84. ~~An assessment may be imposed before the costs are incurred, based on the estimated cost.~~A preliminary assessment roll may be prepared before the costs are incurred based on the estimated cost of the project.

(c) Method. – The city council must establish an assessment method that will most accurately assess each lot or parcel of land according to the benefits conferred upon it by the project for which the assessment is made. In addition to the bases upon which assessments may be made under ~~G.S. 153A-186,~~ G.S. 160A-218, the council may select any other method designed to allocate the costs in accordance with benefits conferred."

SECTION 47.6. If House Bill 1889 and Senate Bill 1878, 2007 Regular Session, both become law, then G.S. 105-277.15 as enacted by Senate Bill 1878 is recodified as G.S. 105-277.16.

SECTION 47.7. If House Bill 2314, 2007 Regular Session, becomes law, then G.S. 136-44.53(d), as amended by Section 5 of that bill, reads as rewritten:

"(d) In exercising the authority granted by this section, a local government is authorized to expend its funds for the protection of rights-of-way shown on a duly

adopted transportation corridor official map whether the right-of-way to be acquired is located inside or outside ~~a~~the municipal corporate limits."

SECTION 48. If House Bill 2436, 2007 Regular Session, and Senate Bill 2015, 2007 Regular Session, become law, then Section 11 of Senate Bill 2015 is repealed.

SECTION 49. If House Bill 2443, 2007 Regular Session, becomes law, then Section 2.1 of that act is amended by deleting "135.38.5A." and substituting "135-38.5A."

SECTION 49.5. If House Bill 2443, 2007 Regular Session, becomes law, then G.S. 135-39.24 as amended by Section 3(q) of House Bill 2443 is amended by designating the second subsection "(d)" of G.S. 135-39.24 as "(e)" and relettering the remaining subsections accordingly.

SECTION 49.6. If House Bill 2463 and House Bill 2188, 2007 Regular Session, both become law, then G.S. 53-243.11(16) as enacted by House Bill 2188 is recodified as G.S. 53-243.11(16A).

SECTION 49.7. If House Bill 2623, 2007 Regular Session, becomes law, then any mention in that act, including an amendment to Section 13.6B of S.L. 2008-107, to the "2008 Regular Session" shall be construed as a mention to the 2007 Regular Session.

SECTION 50. If Senate Bill 1800, 2007 Regular Session, becomes law, then G.S. 20-305(5)a., as amended by Section 3 of that bill, reads as rewritten:

"a. This section does not apply:

1. To the relocation of an existing new motor vehicle dealer within that dealer's relevant market area, provided that the relocation not be at a site within 10 miles of a licensed new motor vehicle dealer for the same line make of motor vehicle. If this sub-subdivision is applicable, only dealers trading in the same line-make of vehicle that are located within the 10-mile radius shall be entitled to notice from the manufacturer and have the protest rights afforded under this ~~section; or~~section.
2. If the proposed additional new motor vehicle dealer is to be established at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicle had ceased operating within the previous two ~~years;~~years.
3. To the relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership if the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the ~~relocation;~~ relocation.
4. To the relocation of an existing new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is further away from all other new motor vehicle dealers of the same line make in that relevant market ~~area; or~~area."

SECTION 51. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 5:09 p.m. on the 7th day of August, 2008.

Session Law 2008-188

S.B. 1627

AN ACT TO CREATE THE NORTH CAROLINA RETIREMENT COMMUNITY PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143B of the General Statutes of North Carolina is amended by adding a new Part to read:

"Part 2K. North Carolina Certified Retirement Community Program.

"§ 143B-437.100. North Carolina Certified Retirement Community Program – creation; powers and duties.

(a) Program. – There is established the North Carolina Certified Retirement Community Program as part of the 21st Century Communities program of the North Carolina Department of Commerce. The Department shall coordinate the development and planning of the North Carolina Certified Retirement Community Program with other State and local groups interested in participating in and promoting the North Carolina Certified Retirement Community Program. The Department shall adopt administrative rules to implement the provisions of this Part. For purposes of this Part, "Department" means the North Carolina Department of Commerce, and "Program" means the North Carolina Certified Retirement Community Program.

(b) Purpose. – The purpose of the Program is to encourage retirees and those planning to retire to make their homes in North Carolina. In order to further this purpose, the Department shall engage in the following activities:

- (1) Promote the State as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of North Carolina.
- (2) Assist North Carolina communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle.
- (3) Assist in the development of retirement communities and continuing care facilities under Article 64 of Chapter 58 of the General Statutes in order to promote economic development and a potential workforce to enrich North Carolina communities.
- (4) Encourage mature market travel and tourism to North Carolina to evaluate future retirement desirability and to visit those who have chosen to retire in North Carolina.

(c) Factors. – The Department shall identify factors that are of interest to retirees or potential retirees in order to inform them of the benefits of living in North Carolina. These factors shall be used to develop a scoring system to determine whether an applicant will qualify as a North Carolina certified retirement community and may include the following:

- (1) North Carolina's State and local tax structure.
- (2) Housing opportunities and cost.
- (3) Climate.

- (4) Personal safety.
- (5) Working opportunities.
- (6) Health care and continuing care services.
- (7) Transportation.
- (8) Continuing education.
- (9) Leisure living.
- (10) Recreation.
- (11) The performing arts.
- (12) Festivals and events.
- (13) Sports.
- (14) Other services and facilities necessary to enable persons to age in the community with a minimum of restrictions.

(d) Certification. – The Department shall establish criteria for qualifying as a North Carolina certified retirement community. To be eligible to obtain certification as a North Carolina certified retirement community, the community shall meet each of the following requirements:

- (1) Be located within 30 miles of a hospital and of emergency medical services.
- (2) Take steps to gain the support of churches, clubs, businesses, media, and other entities whose participation will increase the Program's success in attracting retirees or potential retirees.
- (3) Establish a retiree attraction committee. The retiree attraction committee shall fulfill or create subcommittees to fulfill each of the following:
 - a. Conduct a retiree desirability assessment analyzing the community with respect to each of the factors identified by the Department and submit a report of the analysis to the Department.
 - b. Send a representative of the retirement attraction committee to attend State training meetings conducted by the 21st Century Communities program during the certification process.
 - c. Raise funds necessary to run the Program, organize special events, and promote and coordinate the Program with local entities.
 - d. Establish a community image, evaluate target markets, and develop a marketing and public relations plan designed to accomplish the purpose of the Program.
 - e. Develop a system that identifies and makes contact with existing and prospective retirees, that provides tour guides when prospects visit the community, and that responds to inquiries, logs contacts made, invites prospects to special community events, and maintains continual contact with prospects until the prospect makes a retirement location decision.
- (4) Remit an application fee to the 21st Century Communities program equal to the greater of ten thousand dollars (\$10,000) or the product of fifty cents (50¢) multiplied by the population of the community, as determined by the most recent census.
- (5) Submit the completed marketing and public relations plan designed to accomplish the purpose of the Program to the Department.

- (6) Submit a long-term plan outlining the steps the community will undertake to maintain or improve its desirability as a destination for retirees, including corrections to any services or facilities identified in the retiree desirability assessment.

"§ 143B-437.101. North Carolina Certified Retirement Community Program – administration.

(a) Administration and Support. – Upon being certified as a North Carolina certified retirement community, the 21st Century Communities program shall provide the following assistance to the community:

- (1) Assistance in the training of local Program staff and volunteers.
- (2) Ongoing oversight and guidance in marketing and updating on national retirement trends.
- (3) Inclusion in the State's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the Department's Web site.
- (4) Eligibility for State financial assistance for brochures, support material, and advertising.
- (5) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.

(b) Expiration. – A community's certification under this section expires on the fifth anniversary of the date the initial certification is issued. To be considered for recertification by the 21st Century Communities program, an applicant community shall submit the following:

- (1) A completed new application in accordance with the requirements of this Part.
- (2) Data demonstrating the success or failure of the community's efforts to market and promote itself as a desirable location for retirees and potential retirees.
- (3) The fee required by G.S. 143B-437.100(d)(4)."

SECTION 2. Pilot program. – The Department of Commerce, in conjunction with the Second Career Center of Robeson Community College, shall lead the implementation of the North Carolina Certified Retirement Community Program through a pilot project. During this pilot implementation, the community selection criteria and scoring methodology will be defined, applications will be developed, educational sessions will be conducted, and marketing strategies will be developed. The City of Lumberton will serve as the pilot community for this program. In recognition of the assistance, the City of Lumberton shall provide in this pilot implementation, application fee charged for the City's initial application shall be twenty-five dollars (\$25.00). The Department of Commerce, the Second Career Center, and the City of Lumberton shall jointly work to organize the community and prepare its application. The Department of Commerce shall report on the implementation of this section by April 1, 2009, to the Joint Legislative Commission on Governmental Operations and to the House and Senate Appropriations Subcommittees on Natural and Economic Resources.

SECTION 3. Section 2 of this act becomes effective October 1, 2008. The remainder of this act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 5:10 p.m. on the 7th day of August, 2008.

Session Law 2008-189**S.B. 1214**

AN ACT TO AMEND THE INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4B of Chapter 148 of the General Statutes reads as rewritten:

"Article 4B.

"Interstate Compact for ~~the Supervision of Adult Offenders.~~ Adult Offender Supervision.

"§ 148-65.4. Short title.

This Article may be cited as "The Interstate Compact for ~~the Supervision of Adult Offenders~~ Adult Offender Supervision."

"§ 148-65.5. Governor to execute compact; form of compact.

The Governor of North Carolina is authorized and directed to execute a compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

Preamble.

Whereas: The Interstate Compact for the Supervision of Parolees and Probationers was established in 1937, it is the earliest corrections "compact" established among the states, and has not been amended since its adoption over 62 years ago;

Whereas: This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently has jurisdiction over more than a quarter of a million offenders;

Whereas: The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements, and sex offender registration;

Whereas: After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability;

Whereas: The General Assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety. The Governor is hereby authorized and directed to enter into a compact on behalf of the State of North Carolina with any state of the United States and other territorial possessions of the United States legally joining therein in the form substantially as follows;

Whereas: Upon the adoption of this Interstate Compact for ~~the Supervision of Adult Offenders,~~ Adult Offender Supervision, it is the intention of the General Assembly to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers one year after the effective date of this compact.

...

Article IV.
The State Council.

(a) Each member state shall create a State Council for Interstate Adult Offender Supervision that shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators.

(b) Each compacting state retains the right to determine the qualifications of the Compact Administrator, who shall be appointed by the state council or by the Governor in consultation with the legislature and the judiciary. In addition to appointment of its own commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state including, but not limited to, development of policy operations and procedures of the compact within that state.

...

"§ 148-65.6. Implementation of the compact.

(a) The North Carolina State Council for Interstate Adult Offender Supervision shall be established, consisting of ~~11~~14 members. ~~The Secretary of Correction, or the Secretary's designee, shall serve as the Compact Administrator for the State of North Carolina and as North Carolina's Commissioner to the Interstate Compact Commission. The Secretary of Correction, or the Secretary's designee, is a member of the State Council and serves as chairperson of the State Council. North Carolina's Commissioner to the Interstate Compact Commission is a member of the State Council and serves as chair of the State Council.~~ North Carolina's Commissioner to the Interstate Compact Commission is a member of the State Council and serves as chair of the State Council. The remaining members of the State Council shall consist of the following:

- (1) One member representing the executive branch, to be appointed by the Governor;
- (2) One member from a victim's assistance group, to be appointed by the Governor;
- (3) One at-large member, to be appointed by the Governor;
- (4) One member of the Senate, to be appointed by the President Pro Tempore of the Senate;
- (5) One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives;
- (6) A superior court judge, to be appointed by the Chief Justice of the Supreme Court; ~~and~~
- (6a) A district court judge, to be appointed by the Chief Justice of the Supreme Court;
- (7) Four members representing the Division of Community Corrections, to be appointed by the Director of the Division of Community ~~Corrections~~Corrections;
- (8) A district attorney, to be appointed by the Governor; and
- (9) A sheriff, to be appointed by the Governor.

(a1) The Governor, in consultation with the legislature and judiciary, shall appoint the Compact Administrator. The Compact Administrator shall be appointed by the State Council as North Carolina's Commissioner to the Interstate Compact Commission.

(b) The State Council shall meet at least twice a year and may also hold special meetings at the call of the chairperson. All terms are for three years.

(c) The State Council may advise the Compact Administrator on participation in the Interstate Commission activities and administration of the compact.

(d) The members of the State Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses in accordance with the policies of the Office of State Budget and Management.

(e) The State Council shall act in an advisory capacity to the Secretary of Correction concerning this State's participation in Interstate Commission activities and other duties as may be determined by each member state, including recommendations for policy concerning the operations and procedures of the compact within this State.

(f) The Governor shall by executive order provide for any other matters necessary for implementation of the compact at the time that it becomes effective, and, except as otherwise provided for in this section, the State Council may promulgate rules or regulations necessary to implement and administer the compact.

"§ 148-65.7. ~~Supervision fee. Fees.~~

(a) Persons convicted in this State who make a request for transfer to another state pursuant to the compact shall pay a transfer application of one hundred fifty dollars (\$150.00) for each transfer application submitted. The transfer application fee shall be paid to the Compact Commissioner upon submission of the transfer application. The Commissioner or the Commissioner's designee may waive the application fee if either the Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

All fees collected pursuant to this section shall be deposited in the Interstate Compact Fund and shall be used only to support administration of the Interstate Compact.

The Interstate Compact Fund is established within the Department of Correction as a nonreverting, interest-bearing special revenue account. Accordingly, revenue in the Fund at the end of a fiscal year does not revert, and interest and other investment income earned by the Fund shall be credited to it. All moneys collected by the Department of Correction pursuant to this subsection shall be remitted to the State Treasurer to be deposited and held in this Fund. Moneys in the Fund shall be used to supplement funds otherwise available to the Department of Correction for the administration of the Interstate Compact.

(b) Persons supervised in this State pursuant to this compact shall pay the supervision fee specified in G.S. 15A-1374(c). The fee shall be paid to the clerk of court in the county in which the person initially receives supervision services in this State. The Commissioner or the Commissioner's designee may waive the fee if either the Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

"§ 148-65.8. Interstate parole and probation hearing procedures.

(a) Where supervision of an offender is being administered pursuant to the Interstate Compact for ~~the Supervision of Adult Offenders~~, Adult Offender Supervision, the appropriate judicial or administrative authorities in this State shall notify the Compact Administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole, probation, or post-release

supervision violation. Prior to the giving of any such notification, a hearing shall be held in accordance with this section within a reasonable time, unless such hearing is waived by the offender. ~~The appropriate officer or officers of this State shall, as soon as practicable following termination of any such hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the offender by the sending state.~~ Pending any proceeding pursuant to this section, the appropriate officers of this State may take custody of and detain the offender involved for a period not to exceed 15 days prior to the hearing and, ~~if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.~~ hearing. The offender shall not be entitled to bail pending the hearing.

(b) Any hearing pursuant to this section may be before the Administrator of the Interstate Compact for ~~the Supervision of Adult Offenders~~, Adult Offender Supervision, a deputy of the Administrator, any other person appointed by the Administrator, or any person authorized pursuant to the laws of this State to hear cases of alleged parole, probation, or post-release supervision violation, except that no hearing officer shall be the person making the allegation of violation.

(c) With respect to any hearing pursuant to this section, the offender:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that the offender has committed a violation that may lead to a revocation of parole, probation, or post-release supervision.
- (2) Shall be permitted to advise with any persons whose assistance the offender reasonably desires, prior to the hearing.
- (3) Shall have the right to confront and examine any persons who have made allegations against the offender, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.
- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits and other evidence, in support of the offender's contentions. ~~A record of the proceedings shall be made and preserved.~~

(c1) A record of the hearing shall be made and preserved. As soon as practicable following termination of any hearing conducted pursuant to this section or the waiver of such hearing, the appropriate officer or officers of this State shall report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the offender by the sending state. If the hearing recommendation is to retake or reincarcerate the offender, the hearing officer or officers may detain the offender until notice is received from the sending state. If the sending state provides notice that it intends to retake or reincarcerate the offender, the offender shall remain in custody for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.

(d) In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact for ~~the Supervision of Adult Offenders~~, Adult Offender Supervision, any appropriate judicial or administrative officer or agency in another state may hold a hearing on the alleged violation. Upon receipt of the record of a parole, probation, or post-release supervision violation hearing

held in another state pursuant to a statute substantially similar to this section, that record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter.

"§ 148-65.9. North Carolina sentence to be served in another jurisdiction.

The Post-Release Supervision and Parole Commission, with the concurrence of the Secretary of Correction, may direct that the balance of any sentence imposed by the courts of this State shall be served concurrently with a sentence or sentences in another state or federal institution and may effect a transfer of custody of such individual to the other jurisdiction for such purpose. In the event the individual's sentence liability in the other jurisdiction terminates prior to the expiration of the individual's North Carolina sentence, the individual shall be either paroled (if eligible) or returned to the prison department of this State, in the discretion of the Post-Release Supervision and Parole Commission."

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, 2008.

Became law upon approval of the Governor at 5:15 p.m. on the 7th day of August, 2008.

Session Law 2008-190

S.B. 1787

AN ACT TO MAKE CHANGES TO THE LAWS GOVERNING VEHICLE REGISTRATION AND INSPECTION, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-66(k) is repealed.

SECTION 2. G.S. 20-183.4(b)(4) reads as rewritten:

"(b) Station Qualifications. – An applicant for a license as a safety inspection station must meet all of the following requirements:

...

- (4) Have equipment and software approved by the Division to transfer information on safety inspections to the Division by electronic means. During the initial implementation of the electronic inspection process, the vendor selected by the Division shall provide the equipment and software at no cost to a station that holds a license on October 1, 2008."

SECTION 3. G.S. 20-183.4C reads as rewritten:

"§ 20-183.4C. When a vehicle must be inspected; ~~one-way~~ three-day trip permit.

(a) Inspection. – A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

- (1) A new vehicle must be inspected before it is sold at retail in this State. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
- (1a) A new motor vehicle dealer who is also licensed pursuant to this Article may, notwithstanding subdivision (1) of this section, examine the safety and emissions control devices on a new motor vehicle and

perform such services necessary to ensure the motor vehicle conforms to the required specifications established by the manufacturer and contained in its predelivery check list. The completion of the predelivery inspection procedure required or recommended by the manufacturer on a new motor vehicle shall constitute the inspection required by subdivision (1) of this section. For the purposes of this subdivision, the date of inspection shall be deemed to be the date of the sale of the motor vehicle to a purchaser.

- (2) A used vehicle must be inspected before it is offered for sale at retail in this State by a dealer. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
- (3) Repealed by Session Law 2007-503, s. 5, effective October 1, 2008.
- (4) A new or used vehicle acquired by a resident of this State from outside the State must be inspected ~~within 10 days after~~ before the vehicle is registered with the Division.
- (5) A vehicle owned by a new resident of this State who transfers the registration of the vehicle from the resident's former home state to this State must be inspected ~~within 10 days after~~ before the vehicle is registered with the Division.
- (5a) Repealed by Session Law 2007-503, s. 5, effective October 1, 2008.
- (6) A vehicle that has been inspected in accordance with this Part must be inspected by the last day of the month in which the registration on the vehicle expires.
- (7) A vehicle that is required to be inspected in accordance with this Part may be inspected 90 days prior to midnight of the last day of the month as designated by the vehicle registration sticker.
- (8) A new or used vehicle acquired from a retailer in this State and registered with the Division with a new registration or a transferred registration must be inspected in accordance with this Part when the current registration expires.
- (9) A used vehicle acquired from a private sale in this State must be inspected in accordance with this Part ~~within 30 days after~~ before the vehicle is registered with the Division ~~or when the current registration expires if it has not received~~ unless it has received a passing inspection within the previous 12 months.
- (10) An unregistered vehicle must be inspected ~~within 30 days after~~ before the vehicle is registered with the Division ~~or not later than 30 days after a transferred registration expires~~ unless it has received a passing inspection within the previous 12 months.
- (11) A person who owns a vehicle located outside of this State when its emissions inspection becomes due may obtain an emissions inspection in the jurisdiction where the vehicle is located, in lieu of a North Carolina emissions inspection, as long as the inspection meets the requirements of 40 C.F.R. § 51.

(b) Permit. – The Division may issue a ~~one-way three-day~~ trip permit to a person that authorizes the person to drive ~~to an inspection station~~ an insured vehicle whose inspection ~~sticker~~ authorization or registration has expired. The permit must describe the vehicle whose inspection ~~sticker~~ authorization or registration has expired. The permit authorizing the person to drive the described vehicle only from the place the vehicle is

parked to an inspection ~~station~~-station, repair shop, or Division or contract agent registration office.

The Division may issue a 10-day temporary permit to a person that authorizes the person to drive a vehicle that failed to pass ~~either the safety inspection or emissions~~ inspection. The permit must describe the vehicle that failed to pass inspection and the date that it failed to pass inspection."

SECTION 4. This act becomes effective October 1, 2008.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 8:08 a.m. on the 8th day of August, 2008.

Session Law 2008-191

S.B. 1860

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR MISDEMEANOR CHILD ABUSE AND TO AMEND THE CRIMINAL OFFENSE OF FELONY CHILD ABUSE AS RECOMMENDED BY THE CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-318.2 reads as rewritten:

"§ 14-318.2. **Child abuse a Class 1 misdemeanor.**

(a) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means is guilty of the ~~Class 1~~Class A1 misdemeanor of child abuse.

(b) The ~~Class 1~~Class A1 misdemeanor of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) A parent who abandons an infant less than seven days of age pursuant to G.S. 14-322.3 shall not be prosecuted under this section for any acts or omissions related to the care of that infant."

SECTION 2. G.S. 14-318.4 reads as rewritten:

"§ 14-318.4. **Child abuse a felony.**

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class E felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the ~~juvenile~~child is guilty of child abuse and shall be punished as a Class E felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon a ~~juvenile~~the child is guilty of a Class E felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or

who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class C 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.~~

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class H felony if the act or omission results in serious physical injury to the child.

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant.

(d) The following definitions apply in this section:

(1) Serious bodily injury. – 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.

(2) Serious physical injury. – Physical injury that causes great pain and suffering. The term includes serious mental injury."

SECTION 3. This act becomes effective December 1, 2008, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 8:12 a.m. on the 8th day of August, 2008.

Session Law 2008-192

S.B. 2015

AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA SCHOOL OF THE ARTS TO THE UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-2(4) reads as rewritten:

"(4) 'Constituent institution' or 'institution' means one of the 16 public institutions of higher education, to wit, the University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of

North Carolina at Charlotte, the University of North Carolina at Asheville, the University of North Carolina at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts,' Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", Western Carolina University, and Winston-Salem State University, and the constituent high school, the North Carolina School of Science and Mathematics."

SECTION 2. G.S. 116-4 reads as rewritten:

"§ 116-4. Constituent institutions of the University of North Carolina.

The University of North Carolina shall be composed of the following institutions of higher education: the University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, the University of North Carolina at Asheville, the University of North Carolina at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts,' Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", Western Carolina University and Winston-Salem State University, and the constituent high school, the North Carolina School of Science and Mathematics."

SECTION 3. G.S. 116-5(a)(2) reads as rewritten:

"(2) One person elected prior to January 1, 1972, by and from the membership of the board of trustees of each of the following institutions: Elizabeth City State University, Fayetteville State University, North Carolina School of the Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts,' Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", and Winston-Salem State University."

SECTION 4. G.S. 116-12 reads as rewritten:

"§ 116-12. Property and obligations.

All property of whatsoever kind and all rights and privileges held by the Board of Higher Education and by the Boards of Trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts,' Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", Western Carolina University and Winston-Salem State University, as said property, rights and privileges may exist immediately prior to July 1, 1972, shall be, and hereby are, effective July 1, 1972, transferred to and vested in the Board of Governors of the University of North Carolina. All obligations of whatsoever kind of the Board of Higher Education and of the Boards of Trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North

Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts.' Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", Western Carolina University and Winston-Salem State University, as said obligations may exist immediately prior to July 1, 1972, shall be, and the same hereby are, effective July 1, 1972, transferred to and assumed by the Board of Governors of the University of North Carolina. Any property, real or personal, held immediately prior to July 1, 1972, by a board of trustees of a constituent institution for the benefit of that institution or by the University of North Carolina for the benefit of any one or more of its six institutions, shall from and after July 1, 1972, be kept separate and distinct from other property held by the Board of Governors, shall continue to be held for the benefit of the institution or institutions that were previously the beneficiaries and shall continue to be held subject to the provisions of the respective instruments, grants or other means or process by which any property right was acquired. All property of whatsoever kind and all rights and privileges held by the Board of Trustees of the North Carolina School of Science and Mathematics, as said property, rights and privileges may exist immediately prior to July 1, 2007, shall be and hereby are, effective July 1, 2007, transferred to and vested in the Board of Governors of The University of North Carolina. All obligations of whatsoever kind of the Board of Trustees of the North Carolina School of Science and Mathematics as said obligations may exist immediately prior to July 1, 2007, shall be, and the same hereby are, effective July 1, 2007, transferred to and assumed by the Board of Governors of The University of North Carolina. In case a conflict arises as to which property, rights or privileges were held for the beneficial interest of a particular institution, or as to the extent to which such property, rights or privileges were so held, the Board of Governors shall determine the issue, and the determination of the Board shall constitute final administrative action. Nothing in this Article shall be deemed to increase or diminish the income, other revenue or specific property which is pledged, or otherwise hypothecated, for the security or liquidation of any obligations, it being the intent that the Board of Governors shall assume said obligations without thereby either enlarging or diminishing the rights of the holders thereof."

SECTION 5. G.S. 116-31(a) reads as rewritten:

"(a) All persons who, as of June 30, 1972, are serving as trustees of the regional universities and of the North Carolina School of the Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts.' except those who may have been elected to the Board of Governors, shall continue to serve for one year beginning July 1, 1972, and the terms of all such trustees shall continue for the period of one year."

SECTION 6. G.S. 116-41.13A reads as rewritten:

"§ **116-41.13A. Distinguished Professors Endowment Trust Fund; definitions.**

The following definitions apply in this Part:

- (1) "Focused growth institution" means Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical University, North Carolina Central University, The University of North Carolina at Pembroke, Western Carolina University, and Winston-Salem State University.
- (2) "Special needs institution" means the North Carolina School of the ~~Arts~~ Arts, redesignated effective August 1, 2008, as the 'University of

North Carolina School of the Arts,' and The University of North Carolina at Asheville."

SECTION 7. G.S. 116-64 reads as rewritten:

"§ 116-64. Establishment of school.

There is hereby established, and there shall be maintained, a school for the professional training of students having exceptional talent in the performing arts which shall be defined as an educational institution of the State, to serve the students of North Carolina and other states, particularly other states of the South. The school shall be designated the "North Carolina School of the Arts, Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts.'"

SECTION 8. G.S. 116-65 reads as rewritten:

"§ 116-65. To be part of University of North Carolina; membership of Board of Trustees.

The North Carolina School of ~~Arts~~ Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts,' is a part of the University of North Carolina and subject to the provisions of Article 1, Chapter 116, of the General Statutes; provided, however, that notwithstanding the provisions of G.S. 116-31, the Board of Trustees of said school shall consist of 15 persons, 13 of whom are selected in accordance with provisions of G.S. 116-31, and the conductor of the North Carolina Symphony, or the conductor's designee, and the Secretary of the Department of Cultural Resources, both serving ex officio and nonvoting."

SECTION 9. G.S. 116-209.19 reads as rewritten:

"§ 116-209.19. Grants to students.

The Authority is authorized to make grants to eligible students enrolled or to be enrolled in eligible institutions in North Carolina out of such money as from time to time may be appropriated by the State or as may otherwise be available to the Authority for such grants. The Authority, subject to the provisions of this Article and any applicable appropriation act, shall adopt rules, regulations and procedures for determining the needs of the respective students for grants and for the purpose of making such grants. The amount of any grant made by the Authority to any student, whether enrolled or to be enrolled in any private institution or any tax-supported public institution, shall be determined by the Authority upon the basis of substantially similar standards and guides that shall be set forth in the Authority's rules, regulations and procedures; provided, however, that grants made in any fiscal year to students enrolled or to be enrolled in private institutions may be increased to compensate, in whole or in part, for the average annual State appropriated tuition subsidy for such fiscal year, determined as provided herein. The average annual State appropriated subsidy for each fiscal year shall be determined by the Secretary of Administration, after consultation with the Board of Governors of the University of North Carolina and the Authority, for each of the two categories of tax-supported institutions, being (i) institutions, presently 16, that provide education of the collegiate grade and grant baccalaureate degrees and (ii) institutions, such as community colleges and technical institutes created and existing under Chapter 115A of the General Statutes and community colleges created and existing under Chapter 115D of the General Statutes. The average annual State appropriated subsidy for each of such two categories of institutions shall mean the amount of the total appropriations of the State for the respective fiscal years under the current operations budgets, pursuant to the State Budget Act reasonably allocable to undergraduate students enrolled in such institutions exclusive of the Division of Health Affairs of the University of North Carolina and the North Carolina School of the ~~Arts~~

Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts' for all institutions in such category, all as shall be determined by the Secretary of Administration after consultation as above provided, divided by the budgeted number of North Carolina undergraduate students to be enrolled in such fiscal year.

The Authority, in determining the needs of students for grants, may among other factors, give consideration to the amount of other financial assistance that may be available to the students, such as nonrepayable awards under the Pell Grant Program, the Health Professions Education Assistance Act or other student assistance programs created by federal law."

SECTION 10. G.S. 147-54 reads as rewritten:

"§ 147-54. Printing, distribution and sale of the North Carolina Manual.

The Secretary of State shall have printed biennially for distribution and sale, two thousand three hundred fifty (2,350) copies of the North Carolina Manual, and shall make distribution to the State agencies, individuals, institutions and others as herein set forth.

NORTH CAROLINA STATE GOVERNMENT:

Members of the General Assembly	1 ea.
Officers of the General Assembly	1 ea.
Offices of the Clerk of each House of the General Assembly	1 ea.
Legislative Services Officer	1
Legislative Library	6
Members of the Council of State	2 ea.
Appointed Secretaries of Executive Departments	2 ea.
Personnel of the Department of the Secretary of State	1 ea.
State Board of Elections	2
Divisions of Archives and History, Director	1
Search Room	3
Publications Section	2
State Library	10
Libraries within State Agencies	1 ea.
Justices of the North Carolina Supreme Court	1 ea.
Judges of the North Carolina Court of Appeals	1 ea.
Judges of the North Carolina Superior Court	1 ea.
Supreme Court Library	12
Court of Appeals Library	2
Clerk of the Supreme Court	1
Clerk of the Court of Appeals	1
Reporter of the Supreme Court and Court of Appeals	1
Administrative Office of the Courts	5

NORTH CAROLINA EDUCATIONAL INSTITUTIONS:

University of North Carolina System

General Administration Offices	12
Chancellors of the Constituent Institutions	1 ea.
University of North Carolina – Chapel Hill Library	15
North Carolina State University Library	5
East Carolina University Library	5
North Carolina Central University Library	5
Appalachian State University Library	4

University of North Carolina – Charlotte Library	4
University of North Carolina – Greensboro Library	4
Western Carolina University Library	4
Other Constituent Institutions Libraries	3 ea.
North Carolina School of the Arts <u>Arts, redesignated effective August 1, 2008,</u> as the 'University of North Carolina School of the Arts'.....	2
University of North Carolina–Chapel Hill School of Government.....	2
Community Colleges and Technical Institutes	2 ea.
Private Colleges and Universities	
Duke University Library	6
Wake Forest University	6
Campbell University Library	5
Davidson College Library	4
All other Libraries of Senior and Junior Colleges	2 ea.
Public and Private Schools containing grades 8-12	1 ea.
COUNTY GOVERNMENT:	
Clerks of Court	1 ea.
Registers of Deeds	1 ea.
Public Libraries of North Carolina	1 ea.
FEDERAL GOVERNMENT:	
President of the United States	1
North Carolina Members of the Presidential Cabinet	1 ea.
North Carolina Members of the United States Congress	2 ea.
Library of Congress	3
Resident Judges of the Federal Judiciary and United States Attorneys in North Carolina	1 ea.
Secretaries of State of the United States and Territories	1 ea.

After making the above distribution, the remainder shall be sold at the cost of publication plus tax and postage and the proceeds from such sales deposited with the State Treasurer for use by the Publications Division of the Secretary of State's Office to defray the expense of publishing the North Carolina Manual. Libraries and educational institutions not covered in the above distribution shall be entitled to a twenty percent (20%) discount on the cost of any purchase(s)."

SECTION 11. G.S. 165-20(6) reads as rewritten:

"(6) "State educational institution" means any educational institution of higher learning which is owned and operated by the State of North Carolina, or any community college operated under the provisions of Chapter 115A and Article 3 of Chapter 116 of the General Statutes of North Carolina, or the college program of the North Carolina School of the Arts, redesignated effective August 1, 2008, as the 'University of North Carolina School of the Arts,' or any technical institute operated under the provisions of Chapter 115A of the General Statutes of North Carolina."

SECTION 12. The General Statutes are further amended by substituting the phrase "University of North Carolina School of the Arts" for the phrase "North Carolina School of the Arts" wherever that phrase may appear.

SECTION 13.(a) All statutory and other legal authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations or

other funds of the North Carolina School of the Arts remain those of the University of North Carolina School of the Arts.

SECTION 13.(b) Nothing in this act requires the immediate replacement of any stationery, other supplies, or any emblems or other symbols used by the University of North Carolina School of the Arts, as they existed prior to the enactment of this act. The University of North Carolina School of the Arts shall use funds within its budget to replace these items, as necessary.

SECTION 14. This act becomes effective August 1, 2008.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 8:27 a.m. on the 8th day of August, 2008.

Session Law 2008-193

S.B. 2056

AN ACT TO PROVIDE LOCAL GOVERNMENTS WITH AN EXEMPTION FROM ADVANCING COURT FEES IN CHILD SUPPORT ACTIONS, CHILD ABUSE ACTIONS, AND OTHER ACTIONS FILED BY THE DEPARTMENT OF SOCIAL SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 30.10(d) of S.L. 2007-323 is repealed.

SECTION 2. Section 30.10(h) of S.L. 2007-323 reads as rewritten:

"**SECTION 30.10.(h)** ~~Subsection (d) of this act becomes effective July 1, 2008.~~ The remainder of this ~~act~~ section becomes effective August 1, 2007, and applies to all costs assessed or collected on or after that date."

SECTION 3. G.S. 7A-317 reads as rewritten:

"§ 7A-317. **Counties and municipalities not required to advance certain fees.**

Counties and municipalities are ~~not~~ required to advance costs except for the following:

- (1) ~~the~~ The facilities fee, fee.
- (2) ~~the~~ The General Court of Justice fee, fee.
- (3) ~~the~~ The miscellaneous fees enumerated in G.S. 7A-308, or G.S. 7A-308 in child support actions, child abuse actions, and other actions filed by the department of social services.
- (4) ~~the~~ The civil process fees enumerated in G.S. 7A-311."

SECTION 4. Section 3 of this act becomes effective July 1, 2008. The remainder of this act becomes effective June 30, 2008.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 8:30 a.m. on the 8th day of August, 2008.

Session Law 2008-194

H.B. 545

AN ACT TO: (1) PROVIDE THE HOUSING FINANCE AGENCY TWO ADDITIONAL POWERS CONCERNING REAL PROPERTY AND SERVICES RETAINED FOR ISSUANCE OF BONDS; (2) AUTHORIZE A ONETIME BULK UPDATE OF REGISTERED AGENT INFORMATION; (3) AMEND THE LIST

OF ENTITIES INCLUDED AS "ESTABLISHED LEGAL SERVICES PROGRAMS" TO WHICH THE NORTH CAROLINA STATE BAR MAY ALLOCATE FUNDS UNDER THE ACCESS TO CIVIL JUSTICE ACT AND THE DOMESTIC VIOLENCE ASSISTANCE ACT; (4) VALIDATE CERTAIN NOTARIAL ACTS FILED IN THE MECKLENBURG COUNTY REGISTER OF DEEDS OFFICE; (5) VALIDATE CERTAIN NOTARIAL ACTS PERFORMED ON OR BEFORE MAY 1, 2008; (6) MAKE A TECHNICAL CHANGE TO THE NAME OF THE NORTH CAROLINA STATE ART SOCIETY; (7) MAKE VARIOUS CHANGES RELATED TO THE VERIFICATION, RECORDATION, AND INDEXING OF DOCUMENTS PRESENTED TO REGISTERS OF DEEDS; (8) CLARIFY SCOPE OF AUTHORITY TO IMPOSE SANCTIONS IN MEDIATED SETTLEMENT CONFERENCES; (9) PROVIDE AN EXTENSION OF TIME FOR THE REALIGNMENT OF BUDGETS WITHIN THE DEPARTMENT OF PUBLIC INSTRUCTION; (10) AUTHORIZE INCREASED DORMITORY CAPACITY IN CERTAIN COUNTY DETENTION FACILITIES; AND (11) AUTHORIZE THE STATE TREASURER TO DISCLOSE THE NAMES AND ADDRESSES OF RETIRED STATE AND LOCAL EMPLOYEES TO CERTAIN ORGANIZATIONS.

The General Assembly of North Carolina enacts:

HOUSING FINANCE AGENCY CHANGES

SECTION 1.(a) G.S. 122A-5 reads as rewritten:

"§ 122A-5. General powers.

The Agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the power:

- ...
- (25) To participate in and administer federal housing programs, including housing rehabilitation, construction of new housing, assistance to the homeless, and home ownership ~~assistance~~-assistance;
 - (26) To acquire, hold, rent, encumber, transfer, convey, and otherwise deal with real property and utilities in the same manner as a private person or corporation, subject only to the approval of the Governor and Council of State. The Board of Directors may pledge or encumber income and assets of the Agency to secure financing for real property; and
 - (27) To select and retain, subject to the approval of the Local Government Commission, the financial consultants, underwriters, and bond attorneys to be associated with the issuance of any bonds and to pay for services rendered by underwriters, financial consultants, or bond attorneys out of the proceeds of any such issue with regard to which the services were performed."

SECTION 1.(b) G.S. 122A-8.1 is repealed.

BULK UPDATE OF REGISTERED AGENT INFORMATION

SECTION 2.(a) The following definitions apply in this section:

- (1) Department. – The Department of the Secretary of State.
- (2) Filer. – An individual, entity, or corporation that files a single notice pursuant to this section for more than 20,000 entities on file with the Department.

- (3) Notice. – A bulk filing which includes the information required in G.S. 55D-31(a)(2) through (6) and a certification that the filer has complied with the entity notification requirements of G.S. 55D-31(b). For a notice intended to update information for unincorporated nonprofit associations, "notice" shall also mean a filing which includes the information required by G.S. 59B-11(b)(4). Any notice filed must be in an electronic form acceptable to the Department and include a written statement that the notice is filed pursuant to this section.

SECTION 2.(b) Upon receipt and filing by the Department, a notice pursuant to this section shall be sufficient as a matter of law under G.S. 55D-31 and G.S. 59B-11 to update registered office and registered agent information for each entity on file with the Department for which the filer is listed on the records of the Department as the registered office, the registered agent, or both.

SECTION 2.(c) The requirements of G.S. 55D-13(a) and (b), 55D-10(b)(8), 55-1-22(a), 55A-1-22(a), 57C-1-22(a), 59-35.2(a), 59-1106(a), and 59B-11(f) shall not apply to notices filed pursuant to this section.

SECTION 2.(d) This section shall only apply to one notice for each filer.

SECTION 2.(e) Unless otherwise specified, the change of address shall become effective on the 45th day following the Department's receipt of a notice filed pursuant to this section. A filer may specify in the notice a later effective date for the change of address, but not an earlier effective date.

SECTION 2.(f) A notice filed pursuant to this section shall be delivered to the Department no later than one year after the effective date of this section.

UPDATE ENTITIES RECEIVING FUNDS FROM STATE BAR

SECTION 3.(a) G.S. 7A-474.2 reads as rewritten:

"§ 7A-474.2. Definitions.

The following definitions shall apply throughout this Article, unless the context otherwise requires:

...

- (1a) "Established legal services programs" means the following not-for-profit corporations using State funds to serve the counties listed: Legal Services of the Southern Piedmont, serving Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties; ~~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, a statewide program; 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.

...."

SECTION 3.(b) G.S. 7A-474.4 reads as rewritten:

"§ 7A-474.4. 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 based upon the eligible client population in each area, with Pisgah Legal Services receiving the allocation for

Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; ~~Legal Aid Society of Northwest North Carolina receiving half of the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties;~~ and Legal Services of Southern Piedmont receiving half of the allocation for Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties. The North Carolina State Bar shall not use any of these funds for its administrative costs."

SECTION 3.(c) G.S. 7A-474.17 reads as rewritten:

"§ 7A-474.17. Definitions.

The following definitions shall apply throughout this Article, unless the context otherwise requires:

...

- (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."

SECTION 3.(d) G.S. 7A-474.19 reads as rewritten:

"§ 7A-474.19. 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."

VALIDATION OF CERTAIN NOTARIAL ACTS

SECTION 4. G.S. 10B-70 reads as rewritten:

"§ 10B-70. Certain notarial acts for local government agencies validated.

(a) Any acknowledgment taken and any instrument notarized for a local government agency by a person prior to qualification as a notary public but after commissioning or recommissioning as a notary public, by a person whose notary commission has expired, or by a person who failed to qualify within 45 days of commissioning as required by G.S. 10B-10, is hereby validated. The acknowledgment and instrument shall have the same legal effect as if the person qualified as a notary public at the time the person performed the act. This section shall apply to notarial acts performed for a local government agency on or after October 31, 2006, and before June 30, 2007.

(b) Any electronic document filed in the Mecklenburg County Register of Deeds office that purports to be notarized in the Commonwealth of Virginia and that contains the typed name of a Virginia notary together with the notary's expiration date shall be given the same legal effect as if the person performed a lawful notarization in Virginia."

SECTION 5. G.S. 10B-65 reads as rewritten:

"§ 10B-65. Acts of notaries public in certain instances validated.

...

(e) This section applies to notarial acts performed on or before ~~February 1, 2004~~ May 1, 2008."

NORTH CAROLINA STATE ART SOCIETY NAME CHANGE

SECTION 6.(a) G.S. 135-27(d) reads as rewritten:

"(d) The governing board of any association or organization listed in subsection (a), in its discretion, may elect on or before July 1, 1983, by an appropriate resolution of said board, to cause the employees of such association or organization so employed prior to July 1, 1983, to become members of the Teachers' and State Employees' Retirement System. Such Retirement System coverage shall be conditioned on such association's or organization's paying all of the employer's contributions or matching funds from funds of the association or organization and on such board's collecting from its employees the employees' contributions at such rates as may be fixed by law and by the regulations of the Board of Trustees of the Retirement System, all of such funds to be paid to the Retirement System and placed in the appropriate funds. Retroactive coverage of the employees of any such association or organization may also be effected to the extent that such board requests; provided, the association or organization shall pay all of the employer's contributions or matching funds necessary for such purposes; and, provided further, such association or organization shall collect from its employees all employees' contributions necessary for such purpose, computed at such rates and in such amount as the Board of Trustees of the Retirement System shall determine, all of such funds to be paid to the Retirement System, together with such interest as may be due, and placed in the appropriate funds. The provisions of this subsection shall be fully applicable to the North Carolina Symphony Society, Inc. and the North Carolina State Art Society, Inc."

SECTION 6.(b) G.S. 135-40.2(f) reads as rewritten:

"(f) For the support of the benefits made available to any member vested at the time of retirement, their spouses or surviving spouses, and the surviving spouses of employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1, the North Carolina State Art Society, Inc., and the North Carolina Symphony Society, Inc., each association, organization or board shall pay to the Plan the full cost of providing these benefits under this section as determined by the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. In addition, each association, organization or board shall pay to the Plan an amount equal to the cost of the benefits provided under this section to presently retired members of each association, organization or board since such benefits became available at no cost to the retired member."

SECTION 6.(c) The title of Article 3 of Chapter 140 of the General Statutes reads as rewritten:

"Article 3.

North Carolina State Art Society."**SECTION 6.(d)** G.S. 140-5.13(d)(2) and (5) read as rewritten:

"(d) All initial appointments and elections to the Board of Trustees shall be made on July 1, 1980, or as soon as feasible thereafter except as provided in this subsection, and the terms of all except the legislative appointees shall expire on June 30, 1983, or June 30, 1986, as the case may be. In order to establish regularly overlapping terms, initial appointments and elections to the Board of Trustees shall be made as follows:

...

- (2) One member shall be elected by the North Carolina State Art Society, Incorporated, for an initial term of three years and two members shall be elected by that Society for initial terms of six years.

...

- (5) Three members shall be elected by the State Art Museum Building Commission to serve until the termination of that Commission or until June 30, 1983, whichever shall first occur. Upon the termination of the terms of those three members, should such termination occur prior to June 30, 1983, their successors shall be elected as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art; the terms of the successor members so elected shall expire on June 30, 1983. On July 1, 1983, or as soon as feasible thereafter, the successors of these three members shall be elected for terms of six years, as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art.

...."

REGISTER OF DEEDS CHANGES**SECTION 7.(a)** G.S. 47-14 reads as rewritten:

"§ 47-14. **Register of deeds to verify the presence of proof or acknowledgement and register ~~instruments;~~ instruments and electronic documents; order by judge; instruments to which register of deeds is a party.**

(a) Verification of Instruments. – The register of deeds shall not accept for registration any instrument that requires proof or acknowledgement unless the execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the ~~said~~ proof or acknowledgement includes the officer's signature, commission expiration date, and official seal, if required. The register of deeds shall accept an instrument for registration that does not require proof or acknowledgement if the instrument otherwise satisfies the requirements of G.S. 161-14. Any ~~document~~ instrument previously recorded or any certified copy of any ~~document~~ instrument previously recorded may be ~~rerecorded, regardless of whether it has been changed or altered, or it is being rerecorded pursuant to G.S. 47-36.1.~~ rerecorded provided the instrument is conspicuously marked on the first page as a rerecording. The register of deeds may rely on the marking and the appearance of the original recording office's recording information to determine that an instrument is being presented as it was previously recorded. The register of deeds is not required to further verify the proof or acknowledgement of or determine whether any changes or alterations have been made

after the original recording to an instrument presented for rerecording. The register of deeds shall not be is not required to verify or make inquiry concerning any of the following:

- (1) ~~(i) the~~ The legal sufficiency of any proof or ~~acknowledgement,~~ acknowledgement.
- (2) ~~(ii) the~~ The authority of any officer who took a proof or ~~acknowledgement,~~ acknowledgement.
- (3) ~~(iii) the~~ The legal sufficiency of any document presented for ~~registration.~~ registration, or ~~(iv) upon presentation of the original document for re-recording, whether the original document has been changed or altered."~~

(a1) Verification of Electronic Documents. – The requirements of subsection (a) of this section for verification of the execution of an instrument are satisfied with respect to an electronic document if all of the conditions in this subsection are met. For purposes of this subsection, the term "electronic document" is as defined in G.S. 47-16.2(3). The conditions are:

- (1) The register of deeds has authorized the submitter to electronically register the electronic document.
- (2) The document is submitted by a United States federal or state governmental unit or instrumentality or a trusted submitter. For purposes of this subsection, "a trusted submitter" means a person or entity that has entered into a memorandum of understanding regarding electronic recording with the register of deeds in the county in which the electronic document is to be submitted.
- (3) The execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the proof or acknowledgment includes the officer's signature, commission expiration date, and official seal, if required, based on the appearance of these elements on the digitized image of the document as it will appear on the public record.
- (4) Evidence of other required governmental certification or annotation appears on the digitized image of the document as it will appear on the public record.
- (5) With respect to a document submitted by a trusted submitter, the digitized image of the document as it will appear on the public record contains the submitter's name in the following completed statement on the first page of the document image: "Submitted electronically by _____ (submitter's name) in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the _____ (insert county name) County Register of Deeds."
- (6) Except as otherwise provided in this subsection, the digitized image of the electronic document conforms to all other applicable laws and rules that prescribe recordation.

(a2) Verification of Officer's Signature. – Submission to a register of deeds of an electronic document requiring proof or acknowledgement is a representation by the submitter that, prior to submission, the submitter verified the officer's signature required under subdivision (a1)(3) of this section to be one of the types of signatures listed in this

subsection. The register of deeds may rely on this representation for purposes of determining compliance with the signature requirements of this section. The electronic registration of a document with a register of deeds prior to the effective date of this statute is not invalid based on whether the register verified the officer's signature in accordance with this subsection. The types of signatures are:

- (1) A signature in ink by hand.
- (2) An electronic signature as defined in G.S. 10B-101(7).

(b) Order by Judge. – If a register of deeds denies registration pursuant to subsection (a), the person offering the instrument for registration may ~~present the instrument~~ apply to any judge of the district court in the district, including the county in which the instrument is to be registered, for an order for registration. ~~a judge, as provided in subsection (c), and the~~ Upon finding all of the requirements in this subsection, the judge shall ~~determine that if~~ order the instrument to be registered, together with the certificates, and the register of deeds shall register them accordingly. The requirements are:

- (1) If the instrument requires proof or ~~acknowledgement and if~~ acknowledgement, that the signature of one or more signers has been proved or acknowledged before an officer authorized to take proofs and ~~acknowledgements, and if said~~ acknowledgements.
- (2) That the proof or acknowledgement includes the officer's signature and commission expiration date and official seal, if ~~required.~~ required, the judge shall ~~so adjudge, and shall order the instrument to be registered, together with the certificates, and the register of deeds shall register them accordingly.~~

(c) Application for an order for registration pursuant to subsection (b) of this section shall be made to any judge of the district court in the district including the county in which the instrument is to be registered.

(d) Scope. – Registration of an instrument pursuant to this section is not effective with regard to parties who have not executed the instrument or whose execution thereof has not been duly proved or acknowledged.

(e) Register of Deeds as Party. – Any instrument required or permitted by law to be registered in which the register of deeds of the county of registration is a party may be proved or acknowledged before any magistrate or any notary public. ~~Any such~~ The clerk of superior court of the county of registration shall examine any instrument presented for ~~registration.~~ registration shall be examined by the clerk of superior court of the county of registration and if ~~if~~ it appears that the execution and acknowledgment are in due ~~form~~ ~~he form~~, the clerk shall so certify and the instrument shall then be recorded in the office of the register of deeds.

(f) Presumption of Notarial Seal. – The acceptance of a record for registration by the register of deeds shall give rise to a presumption that, at the time the record was presented for registration, a clear and legible image of the notary's official seal was affixed or embossed on the record near the notary's official signature. This presumption shall ~~apply~~ applies regardless of whether the image is legible or photographically reproduced in the records maintained by the register of deeds. A register of deeds may not refuse to accept a record for registration because a notarial seal does not satisfy the requirements of G.S. 10B-37."

SECTION 7.(b) G.S. 47-31(a) reads as rewritten:

"(a) A duly certified copy of any deed or writing required or allowed to be registered may be registered in any county. ~~county without further certification pursuant~~

~~to G.S. 47-14; and the~~ The register of deeds may rely on the record keeper's certification on a presented document that the document is a certified copy and is not required to further verify the proof or acknowledgement otherwise required by G.S. 47-14 or to determine whether the document has been changed or altered after it was certified. The registered or duly certified copy of any deed or writing that has been registered in the county where the land is situate may be given in evidence in any court of the State."

SECTION 7.(c) G.S. 47-36.1 reads as rewritten:

"§ 47-36.1. Correction of errors in recorded instruments.

Notwithstanding G.S. 47-14 and G.S. 47-17, an obvious notice of typographical or other minor error in a deed or other instrument recorded with the register of deeds may be given by recording an affidavit. If an affidavit is conspicuously identified as a corrective or scrivener's affidavit in its title, the register of deeds shall index the name of the affiant, the names of the original parties in the instrument, the recording information of the instrument being corrected, and the original parties as they are named in the affidavit. A copy of the previously recorded instrument to which the affidavit applies may be attached to the affidavit and need not be a certified copy. Notice of the corrective information as provided by the affiant is deemed to have been given as of the time the corrective affidavit is registered. Nothing in this section invalidates or otherwise alters the legal effect of any instrument of correction authorized by statute in effect on the date the instrument was registered. ~~corrected by rerecording the original instrument with the correction clearly set out on the face of the instrument and with a statement of explanation attached. The parties who signed the original instrument or the attorney who drafted the original instrument shall initial the correction and sign the statement of explanation. If the statement of explanation is not signed by the parties who signed the original instrument, it shall state that the person signing the statement is the attorney who drafted the original instrument. The statement of explanation need not be acknowledged. Notice of the correction made pursuant to this section shall be effective from the time the instrument is rerecorded.~~"

SECTION 7.(d) G.S. 161-21 reads as rewritten:

"§ 161-21. General index kept.

The board of county commissioners, commissioners shall, at the expense of the county, shall cause to be made and maintain a consolidated into one book a general index of all the deeds and other documents affecting real property in the register's office. The board of county commissioners shall also have the authority to install the modern "Family" index system and wherever the "Family" index system is in use, no instruments shall be lawfully recorded until indexed and cross indexed under the appropriate family name and the appropriate alphabetical subdivision of said family name, according to the particular system in use."

SECTION 7.(e) G.S. 161-22 reads as rewritten:

"§ 161-22. Index of registered instruments.

(a) ~~The~~ Except as otherwise provided by statute, the register of deeds shall provide and keep in ~~her or his~~ the register's office full and complete alphabetical indexes of the names of the parties to all liens, grants, deeds, mortgages, bonds, and other instruments required or authorized to be registered, and ~~such~~ the indexes shall state in full the names of all parties, whether grantors, grantees, vendors, vendees, obligors, or obligees. The full names of parties shall be entered in the indexes in accordance with the minimum indexing standards adopted pursuant to G.S. 147-54.3(b) and (b1). Reference shall be made, opposite each name, to the book and page or other location where the

instrument is registered. All instruments shall be indexed on either the temporary or permanent index within 24 hours of registration. The register of deeds ~~shall~~is not be required to index an instrument that is part of a document containing multiple instruments, as defined in G.S. 161-10(a)(1), unless the title of that instrument is shown on the first page of the document and the additional registration fee is paid as required by G.S. 161-10(a)(1).

~~(b) In offices using the "Family" index system, the index entry shall show the name of each party under the appropriate family name and the initials of the party under the appropriate alphabetical arrangement of the index. In offices using indexing systems having subdivisions of the letters of the alphabet, a registered instrument shall be deemed properly registered only when it has been indexed under the correct subdivision of the appropriate letter of the alphabet.~~

~~(c) Instruments affecting real property shall be indexed in the appropriate real property indexes, and instruments affecting personal property shall be indexed in the appropriate personal property indexes. Instruments affecting both real and personal property shall be indexed in both the real and personal property indexes.~~

(d) Deeds of trust may be indexed in the names of the grantor and beneficiary only.

(e) Certificates filed for recording pursuant to G.S. 59-2, the Uniform Limited Partnership Act, shall be indexed only under the names of the partnership and each of the general partners. The register of deeds shall cause a statement to be affixed or printed on the index page of the book or books in which limited partnership agreements are filed that ~~such~~the documents are indexed only in the names of the partnership and of each of the general partners.

(f) The alphabetical indexes required by this section may be maintained in index books, on index cards, on film, or in computers or other automated data-processing machines. If the index is maintained in a computer or other automated data processing machine, the register of deeds shall, at least once each month, obtain from the computer or other automated data-processing machine a printed copy on paper or film, or a tape or disk, of all index entries made since the previous printed or filmed copy, or tape or disk, was obtained. These printed or filmed copies, tapes or disks, shall be retained as security copies and may not be altered or destroyed until a subsequent security copy is made containing the index entries from all previous security copies.

(g) The register of deeds may adopt rules establishing indexing procedures and the format of the indexes. The rules shall ~~be in conformity~~conform with the requirements of this section and of other applicable statutes. The rules may address such subjects, by way of example and not limitation, as the indexing of business firms, the indexing of names containing numerals, and the indexing of government agencies. The rules shall be posted in at least two prominent places in the office of register of ~~deeds'~~office deeds and shall also be placed near the index books or in user manuals in offices using automated indexing systems. ~~From and after the effective date of such rules, a registered instrument shall be deemed properly registered only when it has been indexed according to the rules.~~

(h) No instrument shall be deemed registered until it has been indexed as ~~provided in this section~~in a manner to put a reasonably careful and prudent examiner on notice upon inquiry, and, if upon inquiry, the instrument would have been found.

~~(i) A violation of this section shall constitute a Class 1 misdemeanor."~~

MEDIATED SETTLEMENT CONFERENCE CHANGES

SECTION 8.(a) G.S. 7A-38.1(g) reads as rewritten:

"(g) Sanctions. – Any person required to attend a mediated settlement conference or other settlement procedure under this section who, without good cause, fails to attend or fails to pay any or all of the mediator's or other neutral's fee in compliance with this section and the rules adopted under this section, shall be promulgated by the Supreme Court to implement this section is subject to the contempt powers of the court and any appropriate monetary sanction sanctions imposed by a resident or presiding superior court judge judge, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the conference. The monetary sanctions may include the payment of fines, attorneys' fees, mediator and neutral fees, and the expenses and loss of earnings incurred by persons attending the procedure. A party seeking sanctions against another party or person shall do so in a written motion stating the grounds for the motion and the relief sought. The motion shall be served upon all parties and upon any person against whom the sanctions are being sought. The court may initiate sanction proceedings upon its own motion by the entry of a show cause order. If the court imposes sanctions, it shall do so, after notice and a hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions shall be reviewable upon appeal where the entire record as submitted shall be reviewed to determine whether the order is supported by substantial evidence."

SECTION 8.(b) G.S. 7A-38.3B(j) reads as rewritten:

"(j) Sanctions. —~~The clerk may sanction any~~ Any person ordered to attend a mediation conducted pursuant to this section and rules of the Supreme Court who, without good cause, fails to attend the mediation, by imposing an appropriate monetary sanction, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the conference. mediation or fails to pay any or all of the mediator's fee in compliance with this section and the rules promulgated by the Supreme Court to implement this section, is subject to the contempt powers of the clerk and monetary sanctions. The monetary sanctions may include the payment of fines, attorneys' fees, mediator fees, and the expenses and loss of earnings incurred by persons attending the mediation. If the clerk imposes sanctions, the clerk shall do so, after notice and a hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions is reviewable by the superior court in accordance with G.S. 1-301.2 and G.S. 1-301.3, as applicable, and thereafter by the appellate courts in accordance with G.S. 7A-38.1(g)."

SECTION 8.(c) G.S. 7A-38.4A(e) reads as rewritten:

"(e) Any person required to attend a mediated settlement conference or other settlement procedure under this section who, without good cause fails to ~~attend, attend~~ or fails to pay any or all of the mediator or other neutral's fee in compliance with this section is subject to the contempt powers of the court and any appropriate monetary ~~sanction~~ sanctions imposed by a district court judge judge, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the settlement procedure. ~~If the court imposes sanctions, it shall do so, after notice and hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions shall be reviewable upon appeal, and the entire record shall be reviewed to determine whether the order is supported by substantial evidence.~~ A party seeking sanctions against another party or person shall do so in a written motion stating the grounds for the motion and the relief sought. The motion shall be served upon all parties and upon any person against whom sanctions are being sought. The court may initiate sanction proceedings upon its own motion by the entry of a show cause order. If the court imposes sanctions, it shall do so, after notice and hearing, in a written order

making findings of fact and conclusions of law. An order imposing sanctions is reviewable upon appeal, and the entire record shall be reviewed to determine whether the order is supported by substantial evidence."

EXTENSION FOR DPI REALIGNMENT OF BUDGETS

SECTION 9.(a) The heading of Section 7.29 of S.L. 2007-323 reads as rewritten:

"REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION REALIGNMENT OF BUDGETS TO ORGANIZATIONAL STRUCTURE"

SECTION 9.(b) Section 7.29(b) of S.L. 2007-323 reads as rewritten:

"SECTION 7.29.(b) This section expires June 30, ~~2008-2009.~~"

MODIFY DORMITORY REQUIREMENTS IN CERTAIN COUNTY DETENTION FACILITIES

SECTION 10.(a) Notwithstanding any law or rule to the contrary, each dormitory in a county detention facility may house up to 56 inmates as long as the dormitory provides all of the following:

- (1) A minimum floor space of 70 square feet per inmate, including both the sleeping and dayroom areas.
- (2) One shower per eight inmates, one toilet per eight inmates, one sink with a security mirror per eight inmates, and one water fountain.
- (3) A telephone jack or other telephone arrangement provided within the dormitory.
- (4) Space designed to allow a variety of activities.
- (5) Sufficient seating and tables for all inmates.
- (6) A way for officers to observe the entire area from the entrance.

SECTION 10.(b) This act applies only to those counties that have a population in excess of 600,000, according to the most recent decennial federal census.

DISCLOSURE OF RETIRED STATE AND LOCAL EMPLOYEE INFORMATION TO CERTAIN ORGANIZATIONS

SECTION 11.(a) G.S. 126-22 is amended by adding a new subsection to read:

"(d) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former State employees to domiciled, nonprofit organizations representing 10,000 or more retired State government, local government, or public school employees."

SECTION 11.(b) G.S. 115C-321 is amended by adding a new subsection to read:

"(b1) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former public school employees to domiciled, nonprofit organizations representing 10,000 or more retired State government, local government, or public school employees."

SECTION 11.(c) G.S. 115D-29 reads as rewritten:

"§ 115D-29. Confidential information in personnel files; access to information.

(a) All information contained in a personnel file, except as otherwise provided in this Article, is confidential and shall not be open for inspection and examination except to the following persons:

- (1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file at all reasonable times in its entirety except for letters of reference solicited prior to employment;
- (2) The president and other supervisory personnel;
- (3) Members of the board of trustees and the board's attorney;
- (4) A party by authority of a subpoena or proper court order may inspect and examine a particular confidential portion of an employee's personnel file; and
- (5) An official of an agency of the federal government, State government or any political subdivision thereof. Such an official may inspect any personnel records when such [an] inspection is deemed by the college of the employee, applicant, or former employee whose record is to be inspected as necessary and essential to the pursuance of a proper function of said agency; provided, however, that such information shall not be divulged for purposes of assisting in a criminal prosecution, nor for purposes of assisting in a tax investigation.

(b) Notwithstanding any other provision of this Article, any president may, in his discretion, or shall at the direction of the board of trustees, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to the board of trustees or whose personnel file is maintained by the board and the reasons therefor and may allow the personnel file of the person or any portion to be inspected and examined by any person or corporation provided that the board has determined that the release of the information or the inspection and examination of the file or any portion is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; provided, that prior to releasing the information or making the file or any portion available as provided herein, the president shall prepare a memorandum setting forth the circumstances which he and the board deem to require the disclosure and the information to be disclosed. The memorandum shall be retained in the files of the president and shall be a public record.

(c) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former community college employees to domiciled, nonprofit organizations representing 2,000 or more active or retired State government, local government, or public school employees."

SECTION 11.(d) G.S. 153A-98 is amended by adding a new subsection to read:

"(c3) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former local governmental employees to domiciled, nonprofit organizations representing 2,000 or more active or retired State government, local government, or public school employees."

SECTION 11.(e) G.S. 160A-168 is amended by adding a new subsection to read:

"(c3) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former local governmental employees to domiciled, nonprofit

organizations representing 2,000 or more active or retired State government, local government, or public school employees."

EFFECTIVE DATE

SECTION 12. Subsections (a) and (c) of Section 7 of this act become effective October 1, 2008. The repeal of subsection (c) of G.S. 161-22 in Section 7(e) of this act becomes effective July 1, 2008. Section 8 of this act becomes effective January 1, 2009. Section 9 of this act becomes effective June 30, 2008. 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, 2008.

Became law upon approval of the Governor at 8:33 a.m. on the 8th day of August, 2008.

Session Law 2008-195

H.B. 2498

AN ACT (1) TO PROVIDE ADDITIONAL FUNDS FOR THE ASSESSMENT AND CLEANUP OF RELEASES AND DISCHARGES OF PETROLEUM FROM UNDERGROUND STORAGE TANKS BY INCREASING THE FEES PAID BY OWNERS AND OPERATORS OF COMMERCIAL UNDERGROUND STORAGE TANKS; (2) TO ESTABLISH LIMITATIONS ON THE TIME IN WHICH: THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MUST MAKE AN ELIGIBILITY DETERMINATION, REQUESTS FOR PAYMENT OR REIMBURSEMENT MAY BE SUBMITTED TO THE DEPARTMENT, AND THE DEPARTMENT MAY TAKE ADMINISTRATIVE ACTION OR BRING A CIVIL ACTION TO RECOVER PAYMENTS THAT WERE NOT AUTHORIZED BY LAW, THAT WERE MADE ON THE BASIS OF FRAUDULENT INFORMATION, OR FOR OTHER REASONS; (3) TO CLARIFY FINANCIAL RESPONSIBILITY REQUIREMENTS; (4) TO REDUCE THE INCIDENCE OF LEAKS BY REQUIRING SECONDARY CONTAINMENT FOR ALL COMPONENTS OF REGULATED PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS; (5) TO CLARIFY REQUIREMENTS FOR REGISTRATION OF COMMERCIAL TANKS; (6) TO PROVIDE FOR EXPEDITED ASSESSMENT AND CLEANUP OF RELEASES AND DISCHARGES FROM PETROLEUM UNDERGROUND STORAGE TANKS BY REQUIRING THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH A PILOT PROGRAM TO EVALUATE THE USE OF SITE-SPECIFIC CLEANUP STANDARDS; (7) TO PROVIDE FOR RECLASSIFICATION OF A SITE TO A LOWER RISK CLASSIFICATION; AND (8) TO PROVIDE FOR VARIOUS STUDIES AND REPORTS AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.94C reads as rewritten:

"§ **143-215.94C. Commercial leaking petroleum underground storage tank cleanup fees.**

(a) For purposes of this subsection, each compartment of a commercial underground storage tank that is designed to independently contain a petroleum product is a separate petroleum commercial underground storage tank. The owner or operator of a commercial petroleum underground storage tank shall pay to the Secretary for deposit

into the Commercial Fund an annual operating fee of four-hundred twenty dollars (\$420.00) according to the following schedule:

- (1) ~~For for each petroleum commercial underground storage tank, tank of 3,500 gallons or less capacity — two hundred dollars (\$200.00).~~
- (2) ~~For each petroleum commercial underground storage tank of more than 3,500 gallon capacity — three hundred dollars (\$300.00).~~

(b) The annual operating fee shall be determined on a calendar year basis. For petroleum commercial underground storage tanks in use on 1 January and remaining in use on or after 1 December of that year, the annual operating fee due for that year shall be as specified in subsection (a) of this section. For a petroleum commercial underground storage tank that is first placed in ~~use~~ service in any year, the annual operating fee due for that year shall be determined by multiplying one-twelfth (1/12) of the amount specified in subsection (a) of this section by the number of months remaining in the calendar year. For a petroleum commercial underground storage tank that is permanently removed from ~~use~~ service in any year, the annual operating fee due for that year shall be determined by multiplying one-twelfth (1/12) of the amount specified in subsection (a) of this section by the number of months in the calendar year preceding the permanent removal from use. In calculating the pro rata annual operating fee for a tank that is first placed in use or permanently removed during a calendar year under the preceding two sentences, a partial month shall count as a month, except that where a tank is permanently removed and replaced by another tank, the total of the annual operating fee for the tank that is removed and the replacement tank shall not exceed the annual operating fee for the replacement tank. The annual operating fee shall be due and payable on the first day of the month in accordance with a staggered schedule established by the Department. The Department shall implement a staggered schedule to the end that the total amount of fees to be collected by the Department is approximately the same each quarter. A person who owns or operates more than one petroleum commercial underground storage tank may request that the fee for all tanks be due at the same time. The fee for all commercial underground storage tanks located at the same facility shall be due at the same time. A person who owns or operates 12 or more commercial petroleum storage tanks may request that the total of all fees be paid in four equal payments to be due on the first day of each calendar quarter, provided that the fee for all commercial underground storage tanks located at the same facility shall be due at the same time.

(c) Beginning no later than sixty days before the first due date of the annual operating fee imposed by this section, any person who deposits a petroleum product in a commercial underground storage tank that would be subject to the annual operating fee shall, at least once in each calendar year during which such deposit of a petroleum product is made, notify the owner or operator of the duty to pay the annual operating fee. The requirement to notify pursuant to this subsection does not constitute a duty owed by the person depositing a petroleum product in a commercial underground storage tank to the owner or operator and the person depositing a petroleum product in an underground storage tank shall not incur any liability to the owner or operator for failure to give notice of the duty to pay the operating fee.

(d) Repealed by Session Laws 1991, c. 538, s. 3.1.

(e) An owner or operator of a commercial underground storage tank who fails to pay an annual operating fee due under this section within 30 days of the date that the fee is due shall pay, in addition to the fee, a late penalty of five dollars (\$5.00) per day per

commercial underground storage tank, up to a maximum equal to the annual operating fee due. The Department may waive a late penalty in whole or in part if:

- (1) The late penalty was incurred because of the late payment or nonpayment of an annual operating fee by a previous owner or operator.
- (2) The late penalty was incurred because of a billing error for which the Department is responsible.
- (3) Where the late penalty was incurred because the annual operating fee was not paid by the owner or operator due to inadvertence or accident.
- (4) Where payment of the late penalty will prevent the owner or operator from complying with any substantive law, rule, or regulation applicable to underground storage tanks and intended to prevent or mitigate discharges or releases or to facilitate the early detection of discharges or releases."

SECTION 2.(a) G.S. 143-215.94E is amended by adding two new subsections to read:

"(j) An owner, operator, or landowner shall request that the Department determine whether any of the costs of assessment and cleanup of a discharge or release from a petroleum underground storage tank are eligible to be paid or reimbursed from either the Commercial Fund or the Noncommercial Fund within one year after completion of any task that is eligible to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1).

(k) An owner, operator, or landowner shall request payment or reimbursement from the Commercial Fund or the Noncommercial Fund for the cost of a task within one year after the completion of the task. The Department shall deny any request for payment or reimbursement of the cost of any task that would otherwise be eligible to be paid or reimbursed if the request is not received within 12 months after the later of the date on which the:

- (1) Department determines that the cost is eligible to be paid or reimbursed.
- (2) Task is completed."

SECTION 2.(b) Notwithstanding G.S. 143-215.94E(k), as enacted by subsection (a) of this section, an owner, operator, or landowner shall request payment or reimbursement of the cost of any task completed prior to 1 January 2009 that is eligible to be paid or reimbursed from the Commercial Fund or the Noncommercial Fund no later than 1 January 2010. The Department shall deny any request for payment or reimbursement of the cost of any task to which this subsection applies that is made after 1 January 2010.

SECTION 3. G.S. 143-215.94G is amended by adding four new subsections to read:

"(g) If the Department paid or reimbursed costs that are not authorized to be paid or reimbursed under G.S. 143-215.94B or G.S. 143-215.94D as a result of a misrepresentation by an agent who acted on behalf of an owner, operator, or landowner, the Department shall first seek reimbursement, pursuant to subdivision (1) of subsection (d) of this section, from the agent of monies paid to or retained by the agent.

(h) The Department shall take administrative action to recover costs or bring a civil action pursuant to subdivision (1) of subsection (d) of this section to seek reimbursement of costs in accordance with the time limits set out in this subsection.

- (1) The Department shall take administrative action to recover costs or bring a civil action to seek reimbursement of costs that are not authorized to be paid from the Commercial Fund under subdivision (1), (2), or (3) of G.S. 143-215.94B(d) or from the Noncommercial Fund under subdivision (1), (2), or (3) of G.S. 143-215.94D(d) within five years after payment.
- (2) The Department shall take administrative action to recover costs or bring a civil action to seek reimbursement of costs other than those described in subdivision (1) of this subsection within three years after payment.
- (3) Notwithstanding the time limits set out in subdivisions (1) and (2) of this subsection, the Department may take administrative action to recover costs or bring a civil action to seek reimbursement of costs paid as a result of fraud or misrepresentation at any time.
 - (i) An administrative action or civil action that is not commenced within the time allowed by subsection (h) of this section is barred.
 - (j) Except with the consent of the claimant, the Department may not withhold payment or reimbursement of costs that are authorized to be paid from the Commercial Fund or the Noncommercial Fund in order to recover any other costs that are in dispute unless the Department is authorized to withhold payment by a final decision of the Commission pursuant to G.S. 150B-36 or an order or final decision of a court."

SECTION 4. G.S. 143-215.94H reads as rewritten:

"§ **143-215.94H. Financial responsibility.**

(a) The Department shall require each owner and operator of a petroleum underground storage tank who is required to demonstrate financial responsibility under rules promulgated by the United States Environmental Protection Agency pursuant to 42 U.S.C. § 6991b(d) to maintain evidence of financial responsibility ~~of not less than~~ that is the lesser of:

- (1) The full amount of the financial responsibility that an owner or operator is required to demonstrate under rules promulgated by the United States Environmental Protection Agency pursuant to 42 U.S.C. § 6991b(d).
- (2) The amounts required to be paid for by the owner or operator pursuant to G.S. 143-215.94E(b) per occurrence for costs described in G.S. 143-215.94B(b) and ~~G.S. 143-215.94D(b1).~~ G.S. 143-215.94B(b1) if costs are eligible to be paid under those subsections.

(b) Financial responsibility may be established in accordance with rules adopted by the Commission which shall provide that financial responsibility may be established by either insurance, guarantee, surety bond, letter of credit, qualification as a self-insurer, or any combination thereof. The compliance date schedule for demonstrating financial responsibility shall conform to the schedule adopted by the Environmental Protection Agency."

SECTION 5. G.S. 143-215.94T reads as rewritten:

"§ **143-215.94T. Adoption and implementation of regulatory program.**

(a) The Commission shall adopt, and the Department shall implement and enforce, rules relating to underground storage tanks as provided by G.S. 143-215.3(a)(15) and ~~G.S. 143B-282(2)h.~~ G.S. 143B-282(a)(2)h. These rules shall include standards and requirements applicable to both existing and new underground

storage tanks and tank systems, may include different standards and requirements based on tank capacity, tank location, tank age, and other relevant factors, and shall include, at a minimum, standards and requirements for:

- (1) Design, construction, and installation, including monitoring systems.
- (2) Notification to the Department, inspection, and registration.
- (3) Recordation of tank location.
- (4) Modification, retrofitting, and upgrading.
- (5) General operating requirements.
- (6) Release detection.
- (7) Release reporting, investigation, and confirmation.
- (8) Corrective action.
- (9) Repair.
- (10) Closure.
- (11) Financial responsibility.
- (12) Tank tightness testing procedures and certification of persons who conduct tank tightness tests.
- (13) Secondary containment for ~~non~~all components of petroleum underground storage tank systems.

(b) Rules adopted pursuant to subsection (a) of this section that apply only to commercial underground storage tanks shall not apply to any:

- (1) Farm or residential underground storage tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.
- (2) Underground storage tank of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored.
- (3) Underground storage tank of more than 1,100 gallon capacity used for storing heating oil for consumptive use on the premises where stored by four or fewer households.

(c) Rules adopted pursuant to subdivision (13) of subsection (a) of this section shall require secondary containment for all ~~non~~all components of underground storage tank systems, ~~including all piping and~~ including, but not limited to, tanks, piping, fittings, pump heads, and dispensers. Secondary containment requirements shall include standards for double wall ~~piping tanks, piping,~~ piping, and fittings and for sump containment for pump heads and dispensers. The rules shall provide for ~~monthly~~ monitoring of double wall interstices and sump containments. The rules shall apply to any underground storage tank system that is installed on or after the date on which the rules become effective and to the replacement of any ~~non~~all component of an underground storage tank system on or after that date."

SECTION 6. G.S. 143-215.94U reads as rewritten:

"§ 143-215.94U. Registration of petroleum commercial underground storage tanks; operation of petroleum underground storage tanks; operating permit required.

(a) The owner or operator of each petroleum commercial underground storage tank shall annually obtain an operating permit from the Department for the facility at which the tank is located. The Department shall issue an operating permit only if the owner or ~~operator~~operator has done all of the following:

- (1) ~~Has notified~~Notified the Department of the existence of all tanks as required by 40 Code of Federal Regulations § 280.22 (1 July 1994 Edition) or 42 U.S.C. § 6991a, if applicable, at the ~~facility~~facility.

- (2) ~~Has paid~~Paid all fees required under G.S. 143-215.94C for all commercial petroleum underground storage tanks located at the ~~facility;~~facility.
- (3) Complies with applicable release detection, spill and overfill protection, and corrosion protection requirements set out in rules adopted pursuant to this Chapter, notifies the Department of the method or combination of methods of leak detection, spill and overfill protection, and corrosion protection in use, and certifies to the Department that all applicable release detection, spill and overfill protection, and corrosion protection requirements are being met for all petroleum underground storage tanks located at the ~~facility;~~facility.
- (4) If applicable, complies with the Stage I vapor control requirements set out in 15A North Carolina Administrative Code 2D.0928, effective 1 March 1991, notifies the Department of the method or combination of methods of vapor control in use, and certifies to the Department that all Stage I vapor control requirements are being met for all petroleum underground storage tanks located at the ~~facility;~~and facility.
- (5) ~~Has substantially~~Substantially complied with the air quality, groundwater quality, and underground storage tank standards applicable to any activity in which the applicant has previously engaged and has been in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. In determining substantial compliance, the compliance history of the owner or operator and any parent, subsidiary, or other affiliate of the owner, operator, or parent may be considered.
- (6) Demonstrated financial responsibility as required by G.S. 143-215.94H.

(b) The operating permit shall be issued at the time the commercial underground storage annual tank operating fee required under G.S. 143-215.94C(a) is paid and shall be valid from the first day of the month in which the fee is due through the last day of the last month for which the fee is paid in accordance with the schedule established by the Department under G.S. 143-215.94C(b).

(c) No person shall place a petroleum product, and no owner or operator shall cause a petroleum product to be placed, into an underground storage tank at a facility for which the owner or operator does not hold a currently valid operating permit.

(d) The Department shall issue an operating permit certificate for each facility that meets the requirements of subsection (a) of this section. The operating permit certificate shall identify the number of tanks at the facility and shall conspicuously display the date on which the permit expires. Except for the owner or operator, no person shall be liable under subsection (c) of this section if an unexpired operating permit certificate is displayed at the facility, unless the person knows or has reason to know that the owner or operator does not hold a currently valid operating permit for the facility.

(e) The Department may revoke an operating permit only if the owner or operator fails to continuously meet the requirements set out in ~~subdivisions (1) through (4) of~~ subsection (a) of this section. If the Department revokes an operating permit, the owner or operator of the facility for which the operating permit was issued shall immediately surrender the operating permit certificate to the Department, unless the revocation is stayed pursuant to G.S. 150B-33. An owner or operator may challenge a

decision by the Department to deny or revoke an operating permit by filing a contested case under Article 3 of Chapter 150B of the General Statutes. The Secretary shall make the final agency decision regarding the revocation of a permit under this section."

SECTION 7.(a) The definitions set out in G.S. 143-215.94A apply to this section. As used in this section, "Department" means the Department of Environment and Natural Resources and, with respect to any power or duty assigned to the Environmental Management Commission under Article 21A of Chapter 143 of the General Statutes, includes the Environmental Management Commission. As used in this section, "site-specific cleanup standards" means standards developed using the methodology described in the Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites adopted by the American Society for Testing and Materials (ASTM) as E1739-95(2002).

SECTION 7.(b) The Department shall establish a pilot program to evaluate the use of site-specific cleanup standards for the cleanup of discharges or releases of petroleum from underground storage tanks as an alternative to the use of the risk-based assessment and corrective action standards set out in 15A NCAC 2L.0400. The purpose of the pilot program is to determine the extent to which the use of site-specific standards would provide effective protection of public health, safety, and the environment in a cost-effective manner and at a lower overall cost as compared with the use of the risk-based standards set out in 15A NCAC 2L.0400. The pilot program shall apply only to discharges or releases that are classified as intermediate risk under 15A NCAC 2L.0400(d). The pilot program shall evaluate the use of site-specific standards in the cleanup of contamination that results from a discharge or release of petroleum from: (i) an underground storage tank; and (ii) an underground storage tank that is commingled with petroleum contamination from a source of contamination other than an underground storage tank, as provided in G.S. 143-215.94V(h).

SECTION 7.(c) Participation in the pilot program shall be at the election of the owner, operator, or landowner. To participate in the pilot program, an owner, operator, or landowner shall perform a site-specific risk assessment and submit the assessment to the Department. If the Department determines that the use of site-specific cleanup standards will provide effective protection of public health, safety, and the environment, the Department shall set site-specific soil and groundwater cleanup standards for the discharge or release. These site-specific standards shall apply in lieu of the risk-based assessment and corrective action standards set out in 15A NCAC 2L.0400.

SECTION 7.(d) If soil and groundwater contamination from a discharge or release is no greater than the site-specific soil and groundwater cleanup standards set by the Department, the Department shall notify an owner, operator, or landowner that no cleanup, further cleanup, or further action will be required. If soil and groundwater contamination from a discharge or release is greater than the site-specific soil and groundwater cleanup standards set by the Department, the owner, operator, or landowner shall submit a corrective action plan to achieve the standards. The Department may require the owner, operator, or landowner to evaluate the impact of the site-specific cleanup standards on public health, safety, and the environment through use of an appropriate model. The Department shall not set site-specific soil and groundwater cleanup standards for the discharge or release that allow for contamination in excess of unrestricted use standards, as defined in G.S. 143B-279.9, on any real property that is not subject to land-use restrictions under G.S. 143B-279.9 and recordation under G.S. 143B-279.11.

SECTION 7.(e) Except as provided in this section, the provisions of Part 2A and Part 2B of Article 21A of Chapter 143 of the General Statutes apply to this section.

SECTION 7.(f) The Department shall annually report to the Environmental Review Commission on the number of site-specific risk assessments submitted to the Department under the pilot program, the disposition of those submissions, and, for any submissions for which site-specific soil and groundwater cleanup standards are not set, the basis for the decision not to set site-specific cleanup standards. The report shall include a comparison of assessment and corrective action of discharges or releases under the pilot program to assessment and corrective action of intermediate risk discharges or releases pursuant to the risk-based assessment and corrective action standards set out in 15A NCAC 2L.0400. The comparison shall include all of the following:

- (1) The costs associated with investigation, assessment, initial response, abatement, analysis of risk, and development and implementation of a corrective action plan.
- (2) The immediate and long-term impacts on public health, safety, and the environment.
- (3) The need for and use of land-use restrictions as part of the corrective action plan.
- (4) The extent to which corrective action addresses vapor intrusion.

SECTION 7.(g) The Department shall submit the first report required by subsection (f) of this section on or before 1 September 2009. The Department shall include in the report due on or before 1 September 2013 any recommendations, including legislative proposals, based on the findings of the pilot program.

SECTION 8.(a) The definitions set out in subsection (a) of Section 7 of this act apply to this section. It is the policy of the State that a discharge or release be reclassified as low risk if, based on site-specific cleanup standards, investigation, assessment, initial response, abatement, risk-based corrective action, or other corrective action, the Department determines that the discharge or release poses no significant risk to human health or the environment. An owner, operator, or landowner may request that a discharge or release be reclassified to a lower risk classification. If the Department denies a request to reclassify a discharge or release to a lower risk classification, the owner, operator, or landowner may file a petition for a contested case hearing as provided in Article 3 of Chapter 150B of the General Statutes.

SECTION 8.(b) The Department shall report on or before 1 September of each year to the Environmental Review Commission on the number of sites for which reclassification was requested based on site-specific information and the disposition of each request. The Department shall submit the first report required by this section on or before 1 September 2009.

SECTION 9. The Department of Environment and Natural Resources shall establish a process to provide informal notice of any proposed policy change or rule interpretation that is not a rule, as defined in G.S. 150B-2, to interested parties. Except in a situation that requires immediate action, the Department shall receive and consider oral and written comment from interested parties before the Department implements the proposed policy change or rule interpretation. Except in a situation that requires immediate action, the Department shall provide written notice of a policy change or rule interpretation to interested parties at least 30 days prior to its implementation.

SECTION 10. The Department of Insurance, in consultation with the Petroleum Underground Storage Tank Funds Council and the Department of

Environment and Natural Resources, shall provide guidance and technical assistance for the formation of an insurance pool pursuant to G.S. 143-215.94I to any responsible entity that requests assistance.

SECTION 11. Section 8 of S.L. 2001-442 reads as rewritten:

"**SECTION 8.** Sections 1 through 5 of this act become effective 1 October 2001. Sections 6, 7, and 8 of this act are effective when this act becomes law. Sections 1, 2, 3, 4, 5, and 7 of this act expire 1 October ~~2006~~, 2011."

SECTION 12. Notwithstanding any provision of Part 2A of Article 21A of Chapter 143 of the General Statutes, the Department of Environment and Natural Resources shall annually use up to three million dollars (\$3,000,000) of the increase in receipts credited to the Commercial Fund as a result of the increase in the annual operating fee set out in G.S. 143-215.94C(a), as amended by Section 1 of this act, solely for the removal of free petroleum from groundwater as a first priority and shall use the balance of these receipts to address the other concerns raised in the letter from the United States Environmental Protection Agency Region 4 Administrator to the Secretary of Environment and Natural Resources dated 19 September 2006.

SECTION 13. Sections 4, 5, 9, 10, and 13 of this act are effective when this act becomes law. Sections 1, 3, 6, and 12 of this act become effective 1 January 2009. Section 2 of this act becomes effective 1 January 2009 and applies to determinations of eligibility and requests for payments made on or after that date. Sections 7 and 8 of this act are effective when it becomes law and expire 1 September 2014. Section 11 of this act is effective retroactively to 1 October 2006.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 8:40 a.m. on the 8th day of August, 2008.

Session Law 2008-196

S.B. 1652

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES TO CLARIFY LEGISLATIVE CONFIDENTIALITY OF PROGRAM EVALUATION DIVISION DOCUMENTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 120-36.13(a) reads as rewritten:

"(a) Plan. – The Joint Legislative Program Evaluation Oversight Committee, in consultation with the Director of the Program Evaluation Division, must establish an annual work plan for the Division. The Division must adhere to this annual plan, unless the Joint Legislative Program Evaluation Oversight Committee changes the annual plan to add a new evaluation or remove a planned evaluation. Any enacted legislation that directs the Program Evaluation Division to conduct a study or an evaluation is included in the annual work plan by operation of law.

The annual work plan constitutes an information request and a drafting request made by the Committee cochair to legislative employees under Article 17 of Chapter 120 of the General Statutes. Any document prepared by a legislative employee pursuant to the annual work plan becomes available to the public only as provided in G.S. 120-131. Any document prepared by an agency employee pursuant to a request under G.S. 120-131.1(a1) becomes available to the public only as provided in G.S. 120-131."

SECTION 1.(b) G.S. 120-131.1 reads as rewritten:

"§ 120-131.1. Requests from legislative employees for assistance in the preparation of fiscal notes, notes and evaluation reports.

(a) ~~A request—request, including any accompanying documents, made to an agency employee of a State agency other than the General Assembly by an a legislative~~ employee of the Fiscal Research Division for assistance in the preparation of a fiscal note is confidential. An employee of a State agency employee other than the General Assembly who receives such a request or who learns of such a request made to another agency employee of his or her agency shall reveal the existence of the request only to other agency employees of the agency to the extent that it is necessary to respond to the request, and to the agency employee's supervisor and to the Office of State Budget and Management. All documents prepared by the agency employee in response to the request of the Fiscal Research Division are also confidential and shall be kept confidential in the same manner as the original request, except that documents submitted to the Fiscal Research Division in response to the request cease to be confidential under this section when the Fiscal Research Division releases a fiscal note based on the documents.

(a1) A request, and any accompanying documents, made to an agency employee by a legislative employee of the Program Evaluation Division for assistance in the preparation of an evaluation report is confidential. The request and any accompanying documents are not 'public records' as defined by G.S. 132-1. An agency employee who receives a request under this subsection or who learns of such a request made to another agency employee of his or her agency may reveal the existence of the request to other agency employees to the extent that it is necessary to respond to the request and to the agency employee's supervisor. All documents prepared by the agency employee in response to the request of a legislative employee of the Program Evaluation Division are confidential, shall be kept confidential in the same manner as the original request, and are not 'public records' as defined in G.S. 132-1.

(b) As used in this section, "employee"-'agency employee' means an employee or officer of a State agency every agency of North Carolina government or its subdivisions, including every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority, or other unit of government of the State or of any county, unit, special district, or other political subdivision of government.

(c) Violation of this section may be grounds for disciplinary action."

SECTION 2.(a) G.S. 120-36.12 is amended by adding a new subdivision to read:

"(10) To receive reports alleging improper activities or matters of public concern listed in G.S. 126-84. The individual making the report may, at the individual's discretion, remain anonymous. Any report received under this subdivision, in whatever form, shall not be a 'public record' as defined by G.S. 132-1 and becomes available to the public only as provided in G.S. 120-131."

SECTION 2.(b) G.S. 126-85(c) reads as rewritten:

"(c) The protections of this Article shall include State employees who report any activity described in G.S. 126-84 to the State Auditor as authorized by G.S. 147-64.6(e)(16)-G.S. 147-64.6(c)(16) or to the Program Evaluation Division as authorized by G.S. 120-36.12(10)."

SECTION 3. Section 1 of this act is effective June 14, 2007. The remainder of this act is effective when it becomes law, and violations of Section 1 of this act prior to the date this act becomes law may not be grounds for disciplinary action.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 4:17 p.m. on the 8th day of August, 2008.

Session Law 2008-197

S.B. 685

AN ACT TO PROHIBIT THE PLACING OF A BURNING CROSS ON ANY PUBLIC PLACE; TO RAISE THE PENALTY FOR BURNING A CROSS WITH THE INTENT TO INTIMIDATE; TO RAISE THE PENALTY FOR PLACING AN EXHIBIT WITH THE INTENT TO INTIMIDATE; TO RAISE THE PENALTY FOR PLACING AN EXHIBIT WHILE WEARING A MASK, HOOD, OR OTHER DISGUISE; TO CLARIFY THAT THE TERM "EXHIBIT" INCLUDES OBJECTS SUCH AS NOOSES; TO RAISE THE PENALTY FOR OFFENSE COMMITTED BECAUSE OF VICTIM'S BACKGROUND; TO STUDY THE IMPACT OF RECENT CROSS BURNINGS AND NOOSE HANGINGS ACROSS THE STATE; AND TO MAKE RECOMMENDATIONS FOR MODIFICATION TO THE CRIMINAL LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-12.12 reads as rewritten:

"§ 14-12.12. **Placing burning or flaming cross on property of another or on public street or ~~highway~~ highway or on any public place.**

(a) It shall be unlawful for any person or persons to place or cause to be placed on the property of another in this State a burning or flaming cross or any manner of exhibit in which a burning or flaming cross, real or simulated, is a whole or a part, without first obtaining written permission of the owner or occupier of the premises so to do.

(b) It shall be unlawful for any person or persons to place or cause to be placed on the property of another in this State or on a public street or highway, or on any public place a burning or flaming cross or any manner of exhibit in which a burning or flaming cross real or simulated, is a whole or a part, with the intention of intimidating any person or persons or of preventing them from doing any act which is lawful, or causing them to do any act which is unlawful."

SECTION 2. G.S. 14-12.13 reads as rewritten:

"§ 14-12.13. **Placing exhibit with intention of intimidating, etc., another.**

It shall be unlawful for any person or persons to place or cause to be placed anywhere in this State any exhibit of any kind whatsoever, while masked or unmasked, with the intention of intimidating any person or persons, or of preventing them from doing any act which is lawful, or of causing them to do any act which is ~~unlawful~~ unlawful. For the purposes of this section, the term "exhibit" includes items such as a noose."

SECTION 3. G.S. 14-12.14 reads as rewritten:

"§ 14-12.14. **Placing exhibit while wearing mask, hood, or other disguise.**

It shall be unlawful for any person or persons, while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the

wearer, to place or cause to be placed at or in any place in the State any exhibit of any kind whatsoever, with the intention of intimidating any person or persons, or of preventing them from doing any act which is lawful, or of causing them to do any act which is ~~unlawful~~. For the purposes of this section, the term "exhibit" includes items such as a noose."

SECTION 4. G.S. 14-12.15 reads as rewritten:

"§ **14-12.15. Punishment for violation of Article.**

All persons violating any of the provisions of this Article, except for G.S. 14-12.12(b), 14-12.13, and 14-12.14, shall be guilty of a Class 1 misdemeanor. All persons violating the provisions of G.S. 14-12.12(b), 14-12.13, and 14-12.14 shall be punished as a Class ~~I~~H felon."

SECTION 4.1. G.S. 14-3(c) reads as rewritten:

"(c) If any Class 2 or Class 3 misdemeanor is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a Class 1 misdemeanor. If any Class A1 or Class 1 misdemeanor offense is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a Class ~~I~~H felony."

SECTION 5. The Legislative Research Commission shall study the impact of recent cross burnings and noose hangings within the State and determine if any modifications should be made to existing statutes to lawfully deter this type of conduct. The Legislative Research Commission shall report its findings and make recommendations for legislation to the 2009 Session of the General Assembly.

SECTION 6. Sections 1 through 4.1 of this act become effective December 1, 2008, 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 18th day of July, 2008.

Became law upon approval of the Governor at 4:23 p.m. on the 8th day of August, 2008.

Session Law 2008-198

S.B. 845

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) PROVIDE THAT PRIVATE DRINKING WATER WELLS ARE TO BE TESTED FOR CERTAIN ADDITIONAL PARAMETERS; (2) AUTHORIZE THE BOARD OF AGRICULTURE TO ADOPT RULES GOVERNING EUTHANASIA OF ANIMALS; (3) RENAME THE BLUE CRAB RESEARCH PROGRAM THE BLUE CRAB AND SHELLFISH RESEARCH PROGRAM; (4) CLARIFY THAT THE DEPARTMENT OF TRANSPORTATION OR ANY OTHER UNIT OF GOVERNMENT SHALL MAKE OYSTER SHELLS AVAILABLE TO THE DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WITHOUT REMUNERATION; (5) SPECIFY THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION MAY NOT BEGIN THE PROCEDURE TO ADOPT A TEMPORARY OR PERMANENT RULE THAT GOVERNS THE MANAGEMENT OF STORMWATER RUNOFF IN THE COASTAL COUNTIES PURSUANT TO SUBDIVISIONS (1) AND (3) OF G.S. 143-214.7(B) PRIOR TO 1 OCTOBER 2011, SPECIFY THAT ANY SUCH ADDITIONAL RULES SHALL NOT BECOME EFFECTIVE PRIOR TO 1 OCTOBER 2013, AND SPECIFY

THAT RULES ADOPTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION PURSUANT TO ANY OTHER STATE STATUTORY AUTHORITY THAT GOVERN THE MANAGEMENT OF STORMWATER RUNOFF IN THE COASTAL COUNTIES SHALL NOT BECOME EFFECTIVE IN THE COASTAL COUNTIES PRIOR TO 1 OCTOBER 2011; (6) CLARIFY THE PROCEDURE FOR RECORDATION OF RESTRICTIONS AND PROTECTIVE COVENANTS THAT SPECIFY CERTAIN COASTAL STORMWATER MANAGEMENT REQUIREMENTS; (7) PROVIDE THAT A PERSON WHO BECOMES THE OWNER OR OPERATOR OF A COMMERCIAL PETROLEUM UNDERGROUND STORAGE TANK MAY PAY, UNDER PROTEST, UNPAID ANNUAL OPERATING FEES THAT WERE THE OBLIGATION OF A PREVIOUS OWNER OR OPERATOR FOR THE PURPOSE OF OBTAINING AN OPERATING PERMIT FOR THE UNDERGROUND STORAGE TANKS, REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DILIGENTLY SEEK TO COLLECT UNPAID FEES FROM THE PERSON WHO WAS ORIGINALLY RESPONSIBLE FOR PAYMENT, AND PROVIDE THAT A PERSON WHO PAYS FEES UNDER PROTEST MAY BE REIMBURSED TO THE EXTENT THAT THE FEES ARE COLLECTED FROM ANOTHER PERSON; (8) IMPROVE WATER QUALITY AND PROMOTE GROUNDWATER RECHARGE IN AREAS OF THE STATE THAT ARE NOT SUBJECT TO THE STORMWATER MANAGEMENT REQUIREMENTS OF CERTAIN WATER QUALITY PROGRAMS BY REQUIRING EITHER THAT NO MORE THAN EIGHTY PERCENT OF CERTAIN AREAS USED FOR VEHICULAR PARKING BE IMPERVIOUS OR, IN THE ALTERNATIVE, THAT RUNOFF FROM AT LEAST TWENTY PERCENT OF CERTAIN IMPERVIOUS VEHICULAR PARKING AREAS FLOW TO BIORETENTION AREAS; (9) DECLARE THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AGGRESSIVELY COMPEL PERSONS WHO ARE RESPONSIBLE FOR CONTAMINATION OF GROUNDWATER THAT RESULTS IN CONTAMINATION OF DRINKING WATER TO ASSESS AND REMEDIATE THE GROUNDWATER CONTAMINATION AS REQUIRED BY LAW; (10) CONSOLIDATE CERTAIN ENVIRONMENTAL REPORTING REQUIREMENTS; AND (11) TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CORRECTIONS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

PART I. AMEND ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

SECTION 1. G.S. 87-97(h) reads as rewritten:

"(h) Drinking Water Testing. – Within 30 days after it issues a certificate of completion for a newly constructed private drinking water well, the local health department shall test the water obtained from the well or ensure that the water obtained from the well has been sampled and tested by a certified laboratory in accordance with rules adopted by the Commission for Public Health. The water shall be tested for the following parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead,

iron, magnesium, manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, ~~and~~ bacterial indicators, methyl tert-butyl ether, ethylene dibromide, 1,2-dichloroethane, 1,2-dichloropropane, isopropyl ether, benzene, toluene, ethylbenzene, xylenes, trichloroethylene, and tetrachloroethylene."

SECTION 2.(a) G.S. 19A-24 reads as rewritten:

"§ 19A-24. Powers of Board of Agriculture.

(a) The Board of Agriculture shall:

- (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.
- (2) Prescribe the manner in which animals may be transported to and from registered or licensed premises.
- (3) Require licensees and holders of certificates to keep records of the purchase and sale of animals and to identify animals at their establishments.
- (4) Adopt rules to implement this Article, including federal regulations promulgated under Title 7, Chapter 54, of the United States Code.
- (5) Adopt rules on the euthanasia of animals in the possession or custody of any person required to obtain a certificate of registration under this Article. An animal shall only be put to death by a method and delivery of method approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association. The Department shall establish rules for the euthanasia process using any one or combination of methods and standards prescribed by the three aforementioned organizations. The rules shall address the equipment, the process, and the separation of animals, in addition to the animals' age and condition. If the gas method of euthanasia is approved, rules shall require (i) that only commercially compressed carbon monoxide gas is approved for use, and (ii) that the gas must be delivered in a commercially manufactured chamber that allows for the individual separation of animals. Rules shall also mandate training for any person who participates in the euthanasia process.

(b) In addition to rules on the euthanasia of animals adopted pursuant to subdivision (5) of subsection (a) of this section, the Board of Agriculture may adopt rules on the euthanasia of animals for:

- (1) Written and practical examinations for persons who perform euthanasia.
- (2) Issuance of certification to persons who have successfully completed both training and examinations to become a euthanasia technician.
- (3) Recertification of euthanasia technicians on a periodic basis.
- (4) Standards and procedures for the approval of persons who conduct training of euthanasia technicians.
- (5) Approval of materials for use in euthanasia technician training.

- (6) Minimum certification criteria for persons seeking to become euthanasia technicians including, but not limited to: age; previous related experience; criminal record; and other qualifications that are related to an applicant's fitness to perform euthanasia.
- (7) Denial, suspension, or revocation of certification of euthanasia technicians who either violate any provision of the Animal Welfare Act pursuant to Article 3 of Chapter 19A of the General Statutes or otherwise become ineligible for certification.
- (8) Provision of the names of persons who perform euthanasia at animal shelters and for the animal shelter to notify the Department when those persons are no longer affiliated, employed, or serving as a volunteer with the shelter.
- (9) Certified euthanasia technicians to notify the Department when they are no longer employed by or are serving as a volunteer at an animal shelter.
- (10) The duties, responsibilities, and standards of conduct for certified euthanasia technicians."

SECTION 2.(b) It is the intention of the General Assembly that the authorization to adopt rules governing euthanasia of animals set out in subsection (b) of G.S. 19A-24, as enacted by subsection (a) of this section, constitute sufficient statutory authority to support the adoption of 02 NCAC 52J .0401 through 02 NCAC 52J .0420, 02 NCAC 52J .0501 and 02 NCAC 52J .0502, 02 NCAC 52J .0602 through 02 NCAC 52J .0610, 02 NCAC 52J .0701 through 02 NCAC 52J .0705, and 02 NCAC 52J .0801 through 02 NCAC 52J .0803, as adopted by the Board of Agriculture on 13 February 2008.

SECTION 3. The Blue Crab Research Program, administered by the North Carolina Sea Grant Program, shall be renamed the Blue Crab and Shellfish Research Program. Funds appropriated to the Program may be used for research on blue crabs, oysters, scallops, clams, and other shellfish.

SECTION 4. G.S. 136-123(b) reads as rewritten:

"(b) No landscaping or highway beautification project undertaken by the Department or any other unit of government may use oyster shells as a ground cover. The Department or any other unit of government that ~~comes into possession of~~ possesses oyster shells shall make them available to the Department of Environment and Natural Resources, Division of Marine Fisheries, without remuneration, for use in any oyster bed revitalization programs or any other program that may use the shells."

SECTION 5. If Senate Bill 1967 becomes law, then Section 4 of Senate Bill 1967 is designated subsection (a) of Section 4, and a new subsection (b) of Section 4 is inserted after subsection (a) to read:

"SECTION 4.(b) Temporary Limitation on Additional Rule Making. –

- (1) In order to provide sufficient time for full implementation of this act, to provide sufficient time for accumulation and evaluation of data as to the effect of implementation of this act on coastal water quality, to provide time for additional scientific study of factors that impact coastal water quality, to allow for the development of proposals for improvements to the provisions of Section 2 of this act based on careful consideration of the foregoing, and to provide a period of predictability for persons who may be affected by the provisions of Section 2 of this act; except as may be specifically required by federal

- law and except as provided in subsection (a) of this section; the Environmental Management Commission shall not begin a procedure to adopt any additional temporary or permanent rule governing the management of stormwater runoff in the Coastal Counties pursuant to subdivisions (1) and (3) of G.S.143-214.7(b) prior to 1 October 2011.
- (2) Before the Environmental Management Commission begins a procedure to adopt any additional temporary or permanent rule governing the management of stormwater runoff in the Coastal Counties pursuant to subdivisions (1) and (3) of G.S.143-214.7(b), the Environmental Management Commission shall submit a report to the Environmental Review Commission that details the effect of the implementation of Section 2 of this act on coastal water quality. The report shall include information on improvements in coastal water quality, remaining deficiencies in coastal water quality, and the measures that the Environmental Management Commission believes may be necessary to maintain and further improve coastal water quality.
 - (3) Any additional rules that the Environmental Management Commission may adopt governing the management of stormwater runoff in the Coastal Counties pursuant to subdivisions (1) and (3) of G.S.143-214.7(b) shall not become effective prior to 1 October 2013.
 - (4) If the Environmental Management Commission adopts a temporary or permanent rule pursuant to the authority of any provision of State law other than subdivisions (1) and (3) of G.S.143-214.7(b) that governs the management of stormwater runoff in the Coastal Counties, the provisions of that rule shall not apply within the Coastal Counties until 1 October 2011 except as may be specifically required by federal law and except as provided in subsection (a) of this section."

SECTION 6.(a) If Senate Bill 1967 becomes law, then subsection (c) of Section 2 of Senate Bill 1967 reads as rewritten:

"SECTION 2.(c) Requirements for Limited Residential Development in Coastal Counties. – For residential development activities within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a built upon area greater than twelve percent (12%), that do not require a stormwater management permit under subsection (b) of this section, and that will add more than 10,000 square feet of built upon area, a one-time, nonrenewable stormwater management permit shall be obtained. The permit shall require recorded ~~deed~~-restrictions or protective covenants to be recorded on the property in the Office of the Register of Deeds in the county where the property is located prior to the issuance of a certificate of occupancy in order to ensure that the plans and specifications approved in the permit are maintained. Under this permit, stormwater runoff shall be managed using any one or combination of the following practices:

- (1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rain water on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking

areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

- (2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.
- (3) Install any other stormwater best management practice that meets the requirements of 15A NCAC 02H .1008 to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain."

SECTION 6.(b) Subsection (f) of Section 9 of S.L. 2006-246 reads as rewritten:

"(f) Permittees, delegated programs, and regulated entities must impose or require recorded deed restrictions and protective covenants to be recorded on the property in the Office of the Register of Deeds in the county where the property is located prior to the issuance of a certificate of occupancy in order to that ensure that development activities will maintain the project consistent with approved plans."

SECTION 7.(a) G.S. 143-215.94B is amended by adding a new subsection to read:

"(h) The Commercial Fund may be used to reimburse the owner or operator of a commercial petroleum underground storage tank for annual operating fees that were paid under protest pursuant to G.S. 143-215.94C(f) to the extent the Department has recovered the fees from the previous owner or operator from whom the annual operating fees were due. The Commercial Fund may be used only to reimburse those fees that the owner or operator paid to eliminate an unpaid annual operating fees balance that had been accrued by and was the obligation of a previous owner or operator."

SECTION 7.(b) G.S. 143-215.94C is amended by adding a new subsection to read:

"(f) A person who becomes the owner or operator of a commercial petroleum underground storage tank may pay, under protest, unpaid annual operating fees that were the obligation of a previous owner or operator for the purpose of obtaining an operating permit for the underground storage tanks. An owner or operator who pays unpaid operating fees that were due from a previous owner or operator may request reimbursement of those fees as provided in G.S. 143-215.94B(h). In collecting unpaid annual operating fees, the Department shall diligently seek to collect unpaid annual operating fees from the person who was the owner or operator of the commercial petroleum underground storage tank at the time the fee first became due notwithstanding the fact that those fees were paid under protest as provided in this subsection."

SECTION 8.(a) Section 6.22 of S.L. 2007-323 is repealed.

SECTION 8.(b) Chapter 113A of the General Statutes is amended by adding a new Article to read:

"Article 4A.

"Vehicular Surface Areas.

"§ 113A-71. Definitions.

- (a) The definitions set out in Article 4 of this Chapter apply to this Article.
- (b) As used in this section:

- (1) "Impervious surface" means any material that prevents the natural infiltration of water into the soil.
- (2) "Land-disturbing activity" has the same meaning as in G.S. 113A-52.
- (3) "Private passenger vehicle" has the same meaning as in G.S. 20-4.01.
- (4) "Vehicular surface area" means an area primarily used for the parking of private passenger vehicles. "Vehicular surface area" includes the means of ingress and egress to the area where private passenger vehicles are parked. "Vehicular surface area" includes any median, traffic island, or other traffic control device or structure contained wholly within the vehicular parking area. "Vehicular surface area" does not include covered vehicle parking areas or multilevel vehicle parking areas.

"§ 113A-72. Vehicular surface areas.

(a) Alternative Requirements. – For land-disturbing activity that will result in an increase in vehicular surface area of one acre or more, either:

- (1) No more than eighty percent (80%) of the surface area of the vehicular surface area may be impervious surface, or
- (2) The stormwater runoff generated by the first two inches of rain that fall on at least twenty percent (20%) of the vehicular service area during a storm event must flow to an appropriately sized bioretention area that is designed in accordance with the standards established by the Department.

(b) Building Permit. – No permit shall be issued under G.S. 153A-357 or G.S. 160A-417 for any land-disturbing activity that does not comply with the requirements of this section.

(c) Applicability. – This section does not apply in any area of the State in which any of the following programs is being implemented:

- (1) Water Supply Watershed I (WS-I) – 15A NCAC 2B.0212.
- (2) Water Supply Watershed II (WS-II) – 15A NCAC 2B.0214.
- (3) Water Supply Watershed III (WS-III) – 15A NCAC 2B.0215.
- (4) Water Supply Watershed IV (WS-IV) – 15A NCAC 2B.0216.
- (5) Freshwater High Quality Waters (HQW) – 15A NCAC 2H.1006.
- (6) Freshwater Outstanding Resource Waters (ORW) – 15A NCAC 2H.1007.
- (7) The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 2B.0235.
- (8) The Tar-Pamlico River Basin Nutrient Sensitive (NSW) Management Strategy – 15A NCAC 2B.0258.
- (9) The Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 2B.0251.
- (10) Phase II Stormwater Management – S.L. 2006-246.
- (11) Stormwater Requirements: Coastal Counties – 15A NCAC 02H .1005."

SECTION 8.(c) G.S. 153A-357 is amended by adding a new subsection to read:

"(d) No permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity that is subject to, but does not comply with, the requirements of G.S. 113A-72."

SECTION 8.(d) G.S. 160A-417 is amended by adding a new subsection to read:

"(c) No permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity that is subject to, but does not comply with, the requirements of G.S. 113A-72."

SECTION 8.(e) If Senate Bill 1967 becomes law, then G.S. 113A-72(c)(11), as enacted by subsection (b) of this section, reads as rewritten:

"(11) Stormwater Requirements: Coastal Counties — 15A NCAC 02H .1005- Coastal Stormwater Management – Section 2 of S.L. 2008-XXX."

SECTION 8.(f) The Revisor of Statutes shall substitute the correct Session Law Chapter Number for "XXX" in G.S. 113A-72(c)(11), as rewritten by subsection (e) of this section.

SECTION 9. For purposes of this section, "contamination of drinking water" means any exceedance of the drinking water standards adopted by the United States Environmental Protection Agency pursuant to the federal Safe Drinking Water Act or by the drinking water standards adopted by the Commission for Health Services pursuant to Article 10 of Chapter 130A of the General Statutes. It is the intent of the General Assembly that the Department of Environment and Natural Resources aggressively compel persons who are responsible for contamination of groundwater that results in contamination of drinking water to assess and remediate the groundwater contamination as required by law.

PART II. REPORTS CONSOLIDATION.

SECTION 10.1. Subsection (e) of G.S. 143B-279.12 is repealed.

SECTION 10.2. Subsection (c) of G.S. 143B-279.13 is repealed.

SECTION 10.3. Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

§ 143B-279.15. Report on One-Stop Permitting Program and Express Permitting Program.

No later than 1 March of each year, the Department of Environment and Natural Resources shall report to the Fiscal Research Division of the General Assembly and the Environmental Review Commission on the One-Stop for Certain Environmental Permits Program established by G.S. 143B-279.12 and the Express Permit and Certification Reviews Program established by G.S. 143B-279.13. The report shall include:

- (1) The number of environmental permits subject to G.S. 143B-279.12 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 provided by G.S. 143B-279.12. Based on the data gathered in this subdivision, the Department shall include recommendations regarding permit time frames for all major permits issued by the Department.
- (2) Findings on the success of the Express Permit and Certification Reviews program established by G.S. 143B-279.13 and any other findings or recommendations, including any legislative proposals that it deems pertinent."

PART III. TECHNICAL CORRECTIONS.**SECTION 11.1.** G.S. 143-64.12(a) reads as rewritten:

"(a) The Department of Administration through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the ~~2003-2004~~2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs."

SECTION 11.2. G.S. 143-215.3A(a) reads as rewritten:

"(a) The Water and Air Quality Account is established as a nonreverting account within the Department. Revenue in the Account shall be applied to the costs of administering the programs for which the fees were collected. Revenue credited to the Account pursuant to G.S. 105-449.43, G.S. 105-449.125, ~~105-449.134~~,—and ~~105-449.43~~G.S. 105-449.136 shall be used to administer the air quality program. Except for the following fees, all application fees and permit administration fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38 of this Chapter shall be credited to the Account:

- (1) Fees collected under Part 2 of Article 21A and credited to the Oil or Other Hazardous Substances Pollution Protection Fund.
- (2) Fees credited to the Title V Account.
- (3) Repealed by Session Laws 2005-454, s. 7, effective January 1, 2006.
- (4) Fees collected under G.S. 143-215.28A.
- (5) Fees collected under G.S. 143-215.94C shall be credited to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund."

SECTION 11.3. If House Bill 819 becomes law, then G.S. 130A-309.91(9), as enacted by Section 1 of House Bill 819, reads as rewritten:

- "(9) Television manufacturer. – A person that: (i) manufactures for sale in this State a television under a brand that it licenses or owns; (ii) manufactures for sale in this State a television without affixing a brand; (iii) resells into this State a television under a brand it owns or licenses produced by other suppliers, including retail establishments that sell a television under a brand that the retailer owns or licenses; (iv) imports into the United States or exports from the United States a television for sale in this State; (v) sells at retail a television acquired from an importer that is the manufacturer as described in ~~(i)~~ sub-subdivision (iv) of this subdivision, and the retailer elects to register in lieu of the importer as the manufacturer of those products; (vi) manufactures a television for or supplies a television to any person within a distribution network that includes wholesalers or retailers in this State and that benefits from the sale in this State of the television

through the distribution network; or (vii) assumes the responsibilities and obligations of a television manufacturer under this Part. In the event the television manufacturer is one that manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be considered to be a television manufacturer under (i) or (iii) of this subdivision."

SECTION 11.4. If House Bill 819 becomes law, the prefatory language to Section 7 of that act is amended by deleting "Section 16" and substituting "Section 16.6".

SECTION 11.5. If House Bill 821 becomes law, then G.S. 143-215.22L(c), as amended by Section 1 of House Bill 821, reads as rewritten:

"(c) Notice of Intent to File a Petition. – An applicant shall prepare a notice of intent to file a petition that includes a nontechnical description of the applicant's request and an identification of the proposed water source. Within 90 days after the applicant files a notice of intent to file a petition, the applicant shall hold at least one public meeting in the source river basin upstream from the proposed point of withdrawal, at least one public meeting in the source river basin downstream from the proposed point of withdrawal, and at least one public meeting in the receiving river basin to provide information to interested parties and the public regarding the nature and extent of the proposed transfer and to receive comment on the scope of the environmental documents. Written notice of the public meetings shall be provided at least 30 days before the public meetings. At the time the applicant gives notice of the public meetings, the applicant shall request comment on the alternatives and issues that should be addressed in the environmental documents required by this section. The applicant shall accept written comment on the scope of the environmental documents for a minimum of 30 days following the last public meeting. Notice of the public meetings and opportunity to comment on the scope of the environmental documents shall be provided as follows:

- (1) By publishing notice in the North Carolina Register.
- (2) By publishing notice in a newspaper of general circulation in:
 - a. Each county in this State located in whole or in part of the area of the source river basin upstream from the proposed point of withdrawal.
 - b. Each city or county located in a state located in whole or in part of the surface drainage basin area of the source river basin that also falls within, in whole or in part, the area denoted by one of the following eight-digit cataloging units as organized by the United States Geological Survey:
 - ~~03050101 (Broad River: NC and SC);~~
 - ~~03050103 (Broad River: NC and SC);~~
 - ~~03050107 (Broad River: SC);~~
 - ~~03050108 (Broad River: SC);~~
 - ~~03050109 (Broad River: SC);~~
 - ~~03050110 (Broad River: SC);~~
 - ~~03010101 (New River: VA);~~
 - ~~03040101 (New River: VA and NC);~~
 - ~~05050002 (New River: VA and WV);~~
 - ~~05050003 (New River: WV);~~
 - ~~05070201 (New River: KY, VA, and WV);~~

~~06010102 (New River: TN and VA);~~
~~06010205 (New River: TN and VA);~~
~~03050102 (Catawba River: NC);~~
~~03050105 (Catawba River: NC and SC);~~
~~03050106 (Catawba River: SC);~~
~~03050111 (Catawba River: SC);~~
~~03010202 (Chowan River: NC and VA);~~
~~03010205 (Chowan River: NC and VA);~~
~~03010102 (Chowan River: NC and VA);~~
~~03010201 (Chowan River: NC and VA);~~
~~06010108 (French Broad River NC and TN);~~
~~06010105 (French Broad River NC and TN);~~
~~06010106 (French Broad River NC and TN);~~
~~06010201 (French Broad River TN);~~
~~03130001 (Hiwassee River: GA);~~
~~03150103 (Hiwassee River: GA);~~
~~03150105 (Hiwassee River: AL and GA);~~
~~03150106 (Hiwassee River: AL);~~
~~06020003 (Hiwassee River: GA, NC, and TN);~~
~~06020004 (Hiwassee River: TN);~~
~~06030001 (Hiwassee River: AL, GA, and TN);~~
~~03060102 (Little Tennessee River: GA, NC, and SC);~~
~~06010104 (Little Tennessee River: TN);~~
~~06010107 (Little Tennessee River: TN);~~
~~06010202 (Little Tennessee River: TN, GA, and NC);~~
~~06010203 (Little Tennessee River: NC);~~
~~06010204 (Little Tennessee River: NC and TN);~~
~~06010207 (Little Tennessee River: TN);~~
~~06010208 (Little Tennessee River: TN);~~
~~06020001 (Little Tennessee River: AL, GA, TN);~~
~~06020002 (Little Tennessee River: GA, NC, TN);~~
~~03060101 (Savannah River: NC and SC);~~
~~03060103 (Savannah River: GA and SC);~~
~~03060104 (Savannah River: GA);~~
~~03060105 (Savannah River: GA);~~
~~03060107 (Savannah River: SC);~~
~~03040203 (Lumber River: NC and SC);~~
~~03040204 (Lumber River: NC and SC);~~
~~03040201 (Lumber River: NC and SC);~~
~~03040206 (Lumber River: NC and SC);~~
~~03050112 (Lumber River: SC);~~
~~02080108 (Albemarle Sound: VA);~~
~~02080208 (Albemarle Sound: VA);~~
~~03010203 (Albemarle Sound: NC and VA);~~
~~03150101 (Ocoee River: GA and TN);~~
~~03150102 (Ocoee River: GA);~~
~~03150104 (Ocoee River: GA);~~
~~02080201 (Roanoke River: VA and WV);~~
~~02080203 (Roanoke River: VA);~~

~~02080207 (Roanoke River: VA);~~
~~03010104 (Roanoke River: NC and VA);~~
~~03010105 (Roanoke River: VA);~~
~~03010106 (Roanoke River: NC and VA);~~
~~03010204 (Roanoke River: NC and VA);~~
~~05050001 (Watauga River: NC and VA);~~
~~06010101 (Watauga River: TN and VA);~~
~~06010103 (Watauga River: NC and TN);~~
~~03010103 (Yadkin River: NC and VA);~~
~~03040104 (Yadkin River: NC and SC);~~
~~03040207 (Yadkin River: NC and SC);~~
~~03040105 (Yadkin River: NC and SC);~~
~~03040202 (Yadkin River: NC and SC);~~
~~03040205 (Yadkin River: SC);~~
~~03050104 (Yadkin River: SC);~~
03050105 (Broad River: NC and SC);
03050106 (Broad River: SC);
03050107 (Broad River: SC);
03050108 (Broad River: SC);
05050001 (New River: NC and VA);
05050002 (New River: VA and WV);
03050101 (Catawba River: NC and SC);
03050103 (Catawba River: NC and SC);
03050104 (Catawba River: SC);
03010203 (Chowan River: NC and VA);
03010204 (Chowan River: NC and VA);
06010105 (French Broad River: NC and TN);
06010106 (French Broad River: NC and TN);
06010107 (French Broad River: TN);
06010108 (French Broad River: NC and TN);
06020001 (Hiwassee River: AL, GA, TN);
06020002 (Hiwassee River: GA, NC, TN);
06010201 (Little Tennessee River: TN);
06010202 (Little Tennessee River: TN, GA, and NC);
06010204 (Little Tennessee River: NC and TN);
03060101 (Savannah River: NC and SC);
03060102 (Savannah River: GA, NC, and SC);
03060103 (Savannah River: GA and SC);
03060104 (Savannah River: GA);
03060105 (Savannah River: GA);
03040203 (Lumber River: NC and SC);
03040204 (Lumber River: NC and SC);
03040206 (Lumber River: NC and SC);
03040207 (Lumber River: NC and SC);
03010205 (Albemarle Sound: NC and VA);
06020003 (Ocoee River: GA, NC, and TN);
03010101 (Roanoke River: VA);
03010102 (Roanoke River: NC and VA);
03010103 (Roanoke River: NC and VA);

- 03010104 (Roanoke River: NC and VA);
03010105 (Roanoke River: VA);
03010106 (Roanoke River: NC and VA);
06010102 (Watauga River: TN and VA);
06010103 (Watauga River: NC and TN);
03040101 (Yadkin River: VA and NC);
03040104 (Yadkin River: NC and SC);
03040105 (Yadkin River: NC and SC);
03040201 (Yadkin River: NC and SC);
03040202 (Yadkin River: NC and SC).
- c. Each county in this State located in whole or in part of the area of the source river basin downstream from the proposed point of withdrawal.
 - d. Any area in the State in a river basin for which the source river basin has been identified as a future source of water in a local water supply plan prepared pursuant to G.S. 143-355(l).
 - e. Each county in the State located in whole or in part of the receiving river basin.
- (3) By giving notice by first-class mail or electronic mail to each of the following:
- a. The board of commissioners of each county in this State or the governing body of any county or city that is politically independent of a county in any state that is located entirely or partially within the source river basin of the proposed transfer and that also falls within, in whole or in part, the area denoted by one of the eight-digit cataloging units listed in sub-subdivision b. of subdivision (2) of this subsection.
 - b. The board of commissioners of each county in this State or the governing body of any county or city that is politically independent of a county in any state that is located entirely or partially within the receiving river basin of the proposed transfer and that also falls within, in whole or in part, the area denoted by one of the eight-digit cataloging units listed in sub-subdivision b. of subdivision (2) of this subsection.
 - c. The governing body of any public water supply system that withdraws water upstream or downstream from the withdrawal point of the proposed transfer.
 - d. If any portion of the source or receiving river basins is located in another state, all state water management or use agencies, environmental protection agencies, and the office of the governor in ~~each adjacent~~that state upstream or downstream from the withdrawal point of the proposed transfer.
 - e. All persons who have registered a water withdrawal or transfer from the proposed source river basin under this Part or under similar law in an ~~adjacent~~another state.
 - f. All persons who hold a certificate for a transfer of water from the proposed source river basin under this Part or under similar law in an ~~adjacent~~another state.

- g. All persons who hold a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit for a discharge of 100,000 gallons per day or more upstream or downstream from the proposed point of withdrawal.
- h. To any other person who submits to the applicant a written request to receive all notices relating to the petition."

SECTION 11.6. If House Bill 2499 becomes law, then G.S. 143-215.22H(d), as enacted by Section 1 of House Bill 2499, reads as rewritten:

"(d) Any person who is required to register a water withdrawal or transfer under this section shall update the registration by providing the Commission with a current version of the information required by subsection (a) of this section at five-year intervals following the initial registration. A person who submits information to update a registration of a water withdrawal or transfer is not required to pay an additional registration fee under G.S. 143-215.3(a)(1a) and G.S. 143-215.3(a)(1b), but is subject to the ~~late registration fee~~ civil penalty established under this section in the event that updated information is not submitted as required by this subsection."

SECTION 11.7. If Senate Bill 1339 becomes law, then G.S. 75-90(a)(4), as enacted by Section 1 of Senate Bill 1339, reads as rewritten:

"(4) Gasoline. – Defined in ~~G.S. 105-449.60(15)a.~~ G.S. 105-449.60(22)a.."

PART IV. EFFECTIVE DATE.

SECTION 12. Section 1 of this act becomes effective 1 October 2009. Section 2 of this act is retroactive to 1 November 2007. Section 6 of this act becomes effective 1 October 2008. Subsections (a), (e), and (f) of Section 8 of this act become effective when this act becomes law. Subsections (b), (c), and (d) of Section 8 of this act become effective 1 April 2009 and apply to building permits issued pursuant to G.S. 153A-357 and G.S. 160A-417 for which applications are received on or after that date. Sections 3, 4, 5, 7, and 9 through 12 of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 4:30 p.m. on the 8th day of August, 2008.

Session Law 2008-199

S.B. 1955

AN ACT TO PROVIDE FOR THE LIMITED RELEASE OF CERTAIN PRISONERS INTO THE CUSTODY OF IMMIGRATION OFFICIALS FOR REMOVAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 148-4.1 is amended by adding a new subsection to read:

"(i) This section does not apply to inmates released pursuant to G.S. 148-64.1."

SECTION 2. G.S. 143B-266 reads as rewritten:

"§ 143B-266. Post-Release Supervision and Parole Commission – creation, powers and duties.

(a) There is hereby created a Post-Release Supervision and Parole Commission of the Department of Correction with the authority to grant paroles, including both

regular and temporary paroles, to persons held by virtue of any final order or judgment of any court of this State as provided in Chapter 148 of the General Statutes and laws of the State of North Carolina, except that persons sentenced under Article 81B of Chapter 15A of the General Statutes are not eligible for parole but may be conditionally released into the custody and control of United States Immigration and Customs Enforcement pursuant to G.S. 148-64.1. The Commission shall also have authority to revoke, terminate, and suspend paroles of such persons (including persons placed on parole on or before the effective date of the Executive Organization Act of 1973) and to assist the Governor in exercising his authority in granting reprieves, commutations, and pardons, and shall perform such other services as may be required by the Governor in exercising his powers of executive clemency. The Commission shall also have authority to revoke and terminate persons on post-release supervision, as provided in Article 84A of Chapter 15A of the General Statutes.

(b) All releasing authority previously resting in the Commissioner and Commission of Correction with the exception of authority for extension of the limits of the place of confinement of a prisoner contained in G.S. 148-4 is hereby transferred to the Post-Release Supervision and Parole Commission. Specifically, such releasing authority includes work release (G.S. 148-33.1), indeterminate-sentence release (G.S. 148-42), and release of youthful offenders (G.S. 148-49.8), provided the individual considered for work release or indeterminate-sentence release shall have been recommended for release by the Secretary of Correction or his designee. No recommendation for release is required for conditional release pursuant to G.S. 148-64.1.

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, in accordance with which prisoners eligible for parole consideration may have their cases reviewed and investigated and by which such proceedings may be initiated and considered. All rules and regulations heretofore adopted by the Board of Paroles shall remain in full force and effect unless and until repealed or superseded by action of the Post-Release Supervision and Parole Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Correction.

(d) The Commission is authorized and empowered to impose as a condition of parole or post-release supervision that restitution or reparation be made by the prisoner in accordance with the provisions of G.S. 148-57.1. The Commission is further authorized and empowered to make restitution or reparation a condition of work release in accordance with the provisions of G.S. 148-33.2.

(e) The Commission may accept and review requests from persons placed on probation, parole, or post-release supervision to terminate a mandatory condition of satellite-based monitoring as provided by G.S. 14-208.43. The Commission may grant or deny those requests in compliance with G.S. 14-208.43."

SECTION 3. Chapter 148 of the General Statutes is amended by adding a new section to read:

"§ 148-64.1. Early conditional release of inmates subject to a removal order; revocation of release.

(a) Eligibility for Early Release. – Notwithstanding any other provision of law, the Post-Release Supervision and Parole Commission may conditionally release an inmate into the custody and control of United States Immigration and Customs Enforcement if all of the following requirements are satisfied:

- (1) The Department of Correction has received a final order of removal for the inmate from United States Immigration and Customs Enforcement.
- (2) The inmate was convicted of a nonviolent criminal offense and is incarcerated for that offense. If the inmate was convicted of and is incarcerated for more than one offense, then all of the offenses of which the inmate was convicted and is incarcerated must be nonviolent criminal offenses. As used in this subdivision, the term 'nonviolent criminal offense' means a conviction for an impaired driving offense or a felony violation of any of the following:
 - a. G.S. 14-54.
 - b. G.S. 14-56.
 - c. G.S. 14-71.1.
 - d. G.S. 14-100, where the thing of value is less than one hundred thousand dollars (\$100,000).
 - e. G.S. 90-95(d)(4).
- (3) The inmate has served at least half of the minimum sentence imposed by the court or, in the case of an inmate convicted of an impaired driving offense under G.S. 20-138.1, the inmate has met all of the parole eligibility requirements under G.S. 15A-1371, notwithstanding G.S. 20-179(p)(3).
- (4) The inmate was not convicted of an impaired driving offense resulting in death or serious bodily injury, as that term is defined in G.S. 14-32.4.
- (5) The inmate agrees not to reenter the United States unlawfully.

(b) Release Is Discretionary. – The decision to release an inmate once the requirements of subsection (a) of this section are satisfied is in the sole, unappealable discretion of the Post-Release Supervision and Parole Commission.

(b1) Return of Inmates. – In the event that the United States Immigration and Customs Enforcement is unable to or does not deport the inmate, the inmate shall be returned to the custody of the Department of Correction to serve the remainder of the original sentence.

(c) Unlawful Reentry Constitutes Violation. – An inmate released pursuant to this section who returns unlawfully and willfully to the United States violates the conditions of the inmate's early release.

(d) Arrest Authority. – An inmate who violates the conditions of the inmate's early release is subject to arrest by a law enforcement officer.

(e) Effect of Violation. – Upon notification from any federal or state law enforcement agency that the inmate is in custody, and after notice and opportunity to be heard, the Post-Release Supervision and Parole Commission shall revoke the inmate's release and reimprison the inmate for a period equal to the inmate's maximum sentence minus time already served by the inmate upon a finding that an inmate has violated the conditions of the inmate's early release.

(f) Violators Ineligible for Future Release. – Upon revocation of release under this subsection, the inmate shall not be eligible for any future release under this section or for any other release from confinement, other than post-release supervision, until the remainder of the sentence of imprisonment is served."

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

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 4:34 p.m. on the 8th day of August, 2008.

Session Law 2008-200

S.B. 1766

AN ACT TO PROVIDE LIABILITY PROTECTION FOR PRIVATE ASSOCIATIONS, PRIVATE CORPORATIONS, AND PRIVATE NONPROFIT ENTITIES AND ORGANIZATIONS WHEN RESPONDING TO IN-STATE INCIDENTS, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON GOVERNMENTAL IMMUNITY AND THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-14 reads as rewritten:

"§ 166A-14. **Immunity and exemption.**

(a) All functions hereunder and all other activities relating to emergency management are hereby declared to be governmental functions. Neither the State nor any political subdivision thereof, nor, except in cases of willful misconduct, gross negligence or bad faith, any emergency management ~~worker-worker, firm, partnership, association, or corporation~~ complying with or reasonably attempting to comply with this Article or any order, rule or regulation promulgated pursuant to the provisions of this Article or pursuant to any ordinance relating to any emergency management measures enacted by any political subdivision of the State, shall be liable for the death of or injury to persons, or for damage to property as a result of any such activity.

(a1) The immunity provided to firms, partnerships, associations, or corporations, under subsection (a) of this section, is subject to all of the following conditions:

(1) The immunity applies only when the firm, partnership, association, or corporation is acting without compensation or with compensation limited to no more than actual expenses, and one of the following applies:

- a. Emergency management services are provided at any place in this State during a state of disaster or state of emergency declared by the Governor pursuant to this Article or G.S. 14-288.15, and the services are provided under the direction and control of the Secretary of the Department of Crime Control and Public Safety pursuant to G.S. 166A-5, 166A-6, and 143B-476, or the Governor.
- b. Emergency management services are provided during a local state of emergency declared pursuant to Article 36A of Chapter 14 of the General Statutes, and the services are provided under the direction and control of the governing body of any municipality under G.S. 14-288.12 and G.S. 166A-8, the governing body of any county under G.S. 14-288.13 and G.S. 166A-8, or the chair of any board of county commissioners under G.S. 14-288.14 and G.S. 166A-8.

- c. The firm, partnership, association, or corporation is engaged in planning, preparation, training, or exercises with the Division of Emergency Management, the Division of Public Health, or the governing body of each county or municipality under G.S. 166A-7 and G.S. 166A-8 related to the performance of emergency management services or measures.
- (2) The immunity shall not apply to any firm, partnership, association, or corporation, or to any employee or agent thereof, whose act or omission caused in whole or in part the actual or imminent disaster or emergency or whose act or omission necessitated emergency management measures.
- (3) To the extent that any firm, partnership, association, or corporation has liability insurance, that firm, partnership, association, or corporation shall be deemed to have waived the immunity to the extent of the indemnification by insurance for its negligence. An insurer shall not under a contract of insurance exclude from liability coverage the acts or omissions of a firm, partnership, association, or corporation for which the firm, partnership, association, or corporation would only be liable to the extent indemnified by insurance as provided by this subdivision.

(b) The rights of any person to receive benefits to which the person would otherwise be entitled under this Article or under the Workers' Compensation Law or under any pension law, and the right of any such person to receive any benefits or compensation under any act of Congress shall not be affected by performance of emergency management functions.

(c) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing the worker's duties as such, practice such professional, mechanical or other skill during a state of disaster.

(d) As used in this section, the term "emergency management worker" shall include any full or part-time paid, volunteer or auxiliary employee of this State or other states, territories, possessions or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof or of any agency or organization performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. The term "emergency management worker" under this section shall also include any health care worker performing health care services as a member of a hospital-based or county-based State Medical Assistance Team designated by the North Carolina Office of Emergency Medical Services and any person performing emergency health care services under G.S. 90-12.2.

(e) Any emergency management worker, as defined in this section, performing emergency management services at any place in this State pursuant to agreements, compacts or arrangements for mutual aid and assistance to which the State or a political subdivision thereof is a party, shall possess the same powers, duties, immunities and privileges the person would ordinarily possess if performing duties in the State, or political subdivision thereof in which normally employed or rendering services."

SECTION 2. This act is effective when it becomes law and applies to any cause of action arising on or after that date and contract of insurance issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 4:44 p.m. on the 8th day of August, 2008.

Session Law 2008-201

S.B. 1797

AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDY OF TIRE RETREAD PROCESSES, AS RECOMMENDED BY THE COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Department of Administration, Division of Purchase and Contract, is directed to make the following changes to its Request for Proposal criteria for a statewide tire retread contract:

- (1) Require that the bids remain closed until a designated and advertised bid-opening day in which the bids are opened, announced, and recorded in public. The bids shall then be shown and made available to the public.
- (2) Require that the cost of the tire retread include spot repairs and that there no longer be a separate charge for a spot repair.
- (3) Include in the contract that all casings receive a state-of-the-art inspection with the use of shearography, ultrasound, electrostatic discharge, high pressure testing, or other industry standard testing methodology.
- (4) Include a threshold for the number of times a casing may be retreaded.
- (5) Include a threshold for the age of a casing that may be retreaded.
- (6) Include the number of nail hole repairs that are permissible for a casing to be retreaded.
- (7) Provide assurance that a particular fleet will receive its own casings back after retread completed.
- (8) Set minimum tread depths per category or application of the retread tire.
- (9) Consider a multiaward contract structure that includes several vendors; the Office of Purchase and Contract will take into account geographic location, proximity of vendor to customer, and the needs of the users when creating a multiaward contract.
- (10) Provide for any method of tire retreading to be bid separately.

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, 2008.

Became law upon approval of the Governor at 4:48 p.m. on the 8th day of August, 2008.

Session Law 2008-202

S.B. 1799

AN ACT TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO PROVIDE TO THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION THE CRIMINAL HISTORY OF APPLICANTS AND

EMPLOYEES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE; TO AUTHORIZE THE USE OF BLACK-AND-WHITE PHOTOGRAPHS OF LICENSE HOLDERS ON DRIVERS LICENSES; AND TO AUTHORIZE ALTERNATE MAIL DELIVERY OF DRIVERS LICENSES FOR APPLICANTS WHO ARE INELIGIBLE FOR RESIDENTIAL POSTAL SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-19.24. Criminal record checks of applicants and of current employees who are involved in the manufacture or production of drivers licenses and identification cards.

(a) The Department of Justice may, upon request, provide to the Department of Transportation, Division of Motor Vehicles, the criminal history from the State and National Repositories of Criminal Histories of the following individuals if the individual (i) is or will be involved in the manufacture or production of drivers licenses and identification cards, or (ii) has or will have the ability to affect the identity information that appears on drivers licenses or identification cards:

- (1) An applicant for employment.
- (2) A current employee.
- (3) A contractual employee or applicant.
- (4) An employee of a contractor.

(b) Along with the request, the Division of Motor Vehicles shall provide the following to the Department of Justice:

- (1) The fingerprints of the person who is the subject of the record check.
- (2) A form signed by the person who is the subject of the record check consenting to:
 - a. The criminal record check.
 - b. The use of fingerprints.
 - c. Any other identifying information required by the State and National Repositories.
 - d. Any additional information required by the Department of Justice.

(c) The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(d) The Division of Motor Vehicles shall keep all information obtained pursuant to this section confidential.

(e) The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 2. G.S. 20-7(f)(5) reads as rewritten:

- "(5) **(Effective July 1, 2008)** License to be sent by mail. – The Division shall issue to the applicant a temporary driving certificate valid for 20 days, unless the applicant is applying for renewal by mail under subdivision (4) of this subsection. The temporary driving certificate shall be valid for driving purposes only and shall not be valid for

identification purposes. The Division shall produce the applicant's drivers license at a central location and send it to the applicant by first-class mail at the residence address provided by the ~~applicant~~ applicant, unless the applicant is ineligible for mail delivery by the United States Postal Service at the applicant's residence. If the United States Postal Service documents that it does not deliver to the residential address provided by the applicant, and the Division has verified the applicant's residential address by other means, the Division may mail the drivers license to the post office box provided by the applicant. Applicants whose only mailing address prior to July 1, 2008, was a post office box in this State may continue to receive their license at that post office box, provided the applicant's residential address has been verified by the Division."

SECTION 3. G.S. 20-7(n) reads as rewritten:

"(n) Format. – A drivers license issued by the Division must be tamperproof and must contain all of the following information:

- (1) An identification of this State as the issuer of the license.
- (2) The license holder's full name.
- (3) The license holder's residence address.
- (4) A color photograph, or a properly applied laser engraved picture on polycarbonate material, of the license holder, taken by the Division.
- (5) A physical description of the license holder, including sex, height, eye color, and hair color.
- (6) The license holder's date of birth.
- (7) An identifying number for the license holder assigned by the Division. The identifying number may not be the license holder's social security number.
- (8) Each class of motor vehicle the license holder is authorized to drive and any endorsements or restrictions that apply.
- (9) The license holder's signature.
- (10) The date the license was issued and the date the license expires.

~~The Commissioner may waive the requirement of a color photograph on a license if the license holder proves to the satisfaction of the Commissioner that taking the photograph would violate the license holder's religious convictions.~~ In taking photographs of license holders, the Division must distinguish between license holders who are less than 21 years old and license holders who are at least 21 years old by using different color backgrounds or borders for each group. The Division shall determine the different colors to be used.

At the request of an applicant for a drivers license, a license issued to the applicant must contain the applicant's race."

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, 2008.

Became law upon approval of the Governor at 4:51 p.m. on the 8th day of August, 2008.

Session Law 2008-203

S.B. 1946

AN ACT TO CODIFY THE STANDARDS GOVERNING ENERGY EFFICIENCY AND WATER USE FOR MAJOR FACILITY CONSTRUCTION AND RENOVATION PROJECTS INVOLVING STATE, UNIVERSITY, AND COMMUNITY COLLEGE BUILDINGS IN ORDER TO REDUCE THE CONSUMPTION OF ENERGY AND WATER, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, AND TO ALLOW THE STATE, THE UNIVERSITY OF NORTH CAROLINA SYSTEM, AND THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM TO INSTALL PHOTO LUMINESCENT EXIT SIGNS WHEN PERMITTED BY THE STATE BUILDING CODE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 8C.

"Performance Standards for Sustainable, Energy-Efficient Public Buildings.

"§ 143-135.35. Findings; legislative intent.

The General Assembly finds that public buildings can be built and renovated using sustainable, energy-efficient methods that save money, reduce negative environmental impacts, improve employee and student performance, and make employees and students more productive. The main objectives of sustainable, energy-efficient design are to avoid resource depletion of energy, water, and raw materials; prevent environmental degradation caused by facilities and infrastructure throughout their life cycle; and create buildings that are livable, comfortable, safe, and productive. It is the intent of the General Assembly that State-owned buildings and buildings of The University of North Carolina and the North Carolina Community College System be improved by establishing specific performance standards for sustainable, energy-efficient public buildings. These performance standards should be based upon recognized, consensus standards that are supported by science and have a demonstrated performance record. The General Assembly also intends, in order to ensure that the economic and environmental objectives of this Article are achieved, that State agencies, The University of North Carolina, and the North Carolina Community College System determine whether the performance standards are met for major facility construction and renovation projects, measure utility and maintenance costs, and verify whether these standards result in savings. Also, it is the intent of the General Assembly to establish a priority to use North Carolina-based resources, building materials, products, industries, manufacturers, and businesses to provide economic development to North Carolina and to meet the objectives of this Article.

"§ 143-135.36. Definitions.

As used in this section, the following definitions apply unless the context requires otherwise:

- (1) "ASHRAE" means the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.
- (2) "Commission" means to document and to verify throughout the construction process whether the performance of a building, a component of a building, a system of a building, or a component of a

- building system meets specified objectives, criteria, and agency project requirements.
- (3) "Department" means the Department of Administration.
- (4) "Institutions of higher education" means the constituent institutions of The University of North Carolina, the regional institutions as defined in G.S. 115D-2, and the community colleges as defined in G.S. 115D-2.
- (5) "Major facility construction project" means a project to construct a building larger than 20,000 gross square feet of occupied or conditioned space, as defined in the North Carolina State Building Code adopted under Article 9 of Chapter 143 of the General Statutes. "Major facility construction project" does not include a project to construct a transmitter building or a pumping station.
- (6) "Major facility renovation project" means a project to renovate a building when the cost of the project is greater than fifty percent (50%) of the insurance value of the building prior to the renovation and the renovated portion of the building is larger than 20,000 gross square feet of occupied or conditioned space, as defined in the North Carolina State Building Code. "Major facility renovation project" does not include a project to renovate a transmitter building or a pumping station. "Major facility renovation project" does not include a project to renovate a building having historic, architectural, or cultural significance under Part 4 of Article 2 of Chapter 143B of the General Statutes.
- (7) "Public agency" means every State office, officer, board, department, and commission and institutions of higher education.

§ 143-135.37. Energy and water use standards for public major facility construction and renovation projects; verification and reporting of energy and water use.

(a) Program Established. – The Sustainable Energy-Efficient Buildings Program is established within the Department to be administered by the Department. This program applies to any major facility construction or renovation project of a public agency that is funded in whole or in part from an appropriation in the State capital budget or through a financing contract as defined in G.S. 142-82.

(b) Energy-Efficiency Standard. – For every major facility construction project of a public agency, the building shall be designed and constructed so that the calculated energy consumption is at least thirty percent (30%) less than the energy consumption for the same building as calculated using the energy-efficiency standard in ASHRAE 90.1-2004. For every major facility renovation project of a public agency, the renovated building shall be designed and constructed so that the calculated energy consumption is at least twenty percent (20%) less than the energy consumption for the same renovated building as calculated using the energy-efficiency standard in ASHRAE 90.1-2004. For the purposes of this subsection, any exception or special standard for a specific type of building found in ASHRAE 90.1-2004 is included in the ASHRAE 90.1-2004 standard.

(c) Water Use Standard. – For every major facility construction or renovation project of a public agency, the water system shall be designed and constructed so that the calculated indoor potable water use is at least twenty percent (20%) less than the indoor potable water use for the same building as calculated using the fixture performance requirements related to plumbing under the 2006 North Carolina State

Building Code. For every major facility construction project of a public agency, the water system shall be designed and constructed so that the calculated sum of the outdoor potable water use and the harvested stormwater use is at least fifty percent (50%) less than the sum of the outdoor potable water use and the harvested stormwater use for the same building as calculated using the performance requirements related to plumbing under the 2006 North Carolina State Building Code. For every major facility renovation project of a public agency, the Department shall determine on a project-by-project basis what reduced level of outdoor potable use or harvested stormwater use, if any, is a feasible requirement for the project, but the Department shall not require a greater reduction than is required under this subsection for a major facility construction project. To reduce the potable outdoor water use as required under this subsection, landscape materials that are water use efficient and irrigation strategies that include reuse and recycling of the water may be used.

(d) Performance Verification. – In order to be able to verify performance of a building component or an energy or water system component, the construction contract shall include provisions that require each building component and each energy and water system component to be commissioned, and these provisions shall be included at the earliest phase of the construction process as possible and in no case later than the schematic design phase of the project. Such commissioning shall continue through the initial operation of the building. The project design and construction teams and the public agency shall jointly determine what level of commissioning is appropriate for the size and complexity of the building or its energy and water system components.

(e) Separate Utility Meters. – In order to be able to monitor the initial cost and the continuing costs of the energy and water systems, a separate meter for each electricity, natural gas, fuel oil, and water utility shall be installed at each building undergoing a major facility construction or renovation project. Each meter shall be installed in accordance with the United States Department of Energy guidelines issued under section 103 of the Energy Policy Act of 2005 (Pub. L. 109-58, 119 Stat. 594 (2005)). Starting with the first month of facility operation, the public agency shall compare data obtained from each of these meters by month and by year with the applicable energy-efficiency standard under subsection (b) of this section and the applicable water use standard for the project under subsection (c) of this section and report annually no later than August 1 of each year to the Office of State Construction within the Department. If the average energy use or the average water use over the initial 12-month period of facility operation exceeds the applicable energy-efficiency standard under subsection (b) of this section or exceeds the applicable water use standard under subsection (c) of this section by fifteen percent (15%) or more, the public agency shall investigate the actual energy or water use, determine the cause of the discrepancy, and recommend corrections or modifications to meet the applicable standard.

"§ 143-135.38. Use of other standard when standard not practicable.

When the Department, public agency, and the design team determine that the energy-efficiency standard or the water use standard required under G.S. 143-135.37 is not practicable for a major facility construction or renovation project, then it must be determined by the State Building Commission if the standard is not practicable for the major facility construction or renovation project. If the State Building Commission determines the standard is not practicable for that project, the State Building Commission shall determine which standard is practicable for the design and construction for that major facility construction or renovation project. If a standard

required under G.S. 143-135.37 is not followed for that project, the State Building Commission shall report this information and the reasons to the Department within 90 days of its determination.

"§ 143-135.39. Guidelines for administering the Sustainable Energy-Efficient Buildings Program.

(a) Policies and Technical Guidelines. – The Department, in consultation with public agencies, shall develop and issue policies and technical guidelines to implement this Article for public agencies. The purpose of these policies and guidelines is to establish procedures and methods for complying with the energy-efficiency standard or the water use standard for major facility construction and renovation projects under G.S. 143-135.37.

(b) Preproposal Conference. – As provided in the request for proposals for construction services, the public agency may hold a preproposal conference for prospective bidders to discuss compliance with, and achievement of, the energy-efficiency standard or the water use standard required under G.S. 143-135.37 for prospective respondents.

(c) Advisory Committee. – The Department shall create a sustainable, energy-efficient buildings advisory committee comprised of representatives from the design and construction industry involved in public works contracting, personnel from the public agencies responsible for overseeing public works projects, and others at the Department's discretion to provide advice on implementing this Article. Among other duties, the advisory committee shall make recommendations regarding the education and training requirements under subsection (d) of this section, make recommendations regarding specific education and training criteria that are appropriate for the various roles with respect to, and levels of involvement in, a major facility construction or renovation project subject to this Article or the roles regarding the operation and maintenance of the facility, and make recommendations regarding developing a process whereby the Department receives ongoing evaluations and feedback to assist the Department in implementing this Article so as to effectuate the purpose of this Article. Further, the advisory committee may make recommendations to the Department regarding whether it is advisable to strengthen standards for energy efficiency or water use under this Article, whether it is advisable and feasible to add additional criteria to achieve greater sustainability in the construction and renovation of public buildings, or whether it is advisable and feasible to expand the scope of this Article to apply to additional types of publicly financed buildings or to smaller facility projects.

(d) Education and Training Requirements. – The Department shall review the advisory committee's recommendations under subsection (c) of this section regarding education and training. For each of the following, the Department shall develop education and training requirements that are consistent with the purpose of this Article and that are appropriate for the various roles with respect to, and level of involvement in, a major facility construction or renovation project or the roles regarding the operation and maintenance of the facility:

- (1) The chief financial officers of public agencies.
- (2) For each public agency that is responsible for the payment of the agency's utilities, the facility managers of these public agencies.
- (3) The capital project coordinators of public agencies.
- (4) Architects.
- (5) Mechanical design engineers.

(e) Performance Review. – Annually the Department shall conduct a performance review of the Sustainable Energy-Efficient Buildings Program. The performance review shall include at least all of the following:

- (1) Identification of the costs of implementing energy-efficiency and water use standards in the design and construction of major facility construction and renovation projects subject to this Article.
- (2) Identification of operating savings attributable to the implementation of energy-efficiency and water use standards, including, but not limited to, savings in utility and maintenance costs.
- (3) Identification of any impacts on employee productivity from using energy-efficiency and water use standards.
- (4) Evaluation of the effectiveness of the energy-efficiency and water use standards established by this Article.
- (5) Whether stricter standards or additional criteria for sustainable buildings should be used other than the standards under G.S. 143-135.37.
- (6) Whether the Sustainable Energy-Efficient Buildings Program should be expanded to include additional public agencies, to include additional types of projects, or to include smaller major facility construction or renovation projects.
- (7) Any recommendations for any other changes regarding sustainable, energy-efficient building standards that may be supported by the Department's findings.

(f) Report on Performance Review. – Each year, the Department shall include in its consolidated report under subsection (g) of this section a report of its findings under the performance review under subsection (e) of this section.

(g) Consolidated Report Required. – The Department shall consolidate the report required under subsection (f) of this section, the report under G.S. 143-135.37(e), the report, if any, from the State Building Commission under G.S. 143-135.38, and the report under G.S. 143-135.40 into one report. No later than October 1 of each year, this consolidated report shall be transmitted to the Chairs of the General Government Appropriations Subcommittees of both the Senate and the House of Representatives, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations. The Department shall include any recommendations for administrative or legislative proposals that would better fulfill the legislative intent of this Article.

(h) Authority to Adopt Rules or Architectural or Engineering Standards. – The Department may adopt rules to implement this Article. The Department may adopt architectural or engineering standards as needed to implement this Article.

"§ 143-135.40. Monitor construction standards and sustainable building standards.

(a) The Department shall monitor the development of construction standards and sustainable building standards to determine whether there is any standard that the Department determines would better fulfill the intent of the Sustainable Energy-Efficient Buildings Program to achieve sustainable, energy-efficient public buildings than the standards under G.S. 143-135.37, and, if so, whether this Article should be amended to provide for the use of any different standards or the use of any additional standards to address additional aspects of sustainable, energy-efficient buildings. Additional standards monitored shall address consideration of site development, material and resource selection, and indoor environmental quality to enhance the health

or productivity of building occupants. Also, the Department shall monitor the development of improved energy-efficiency standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, the ASHRAE standards, shall monitor whether the State Building Code Council adopts any other energy-efficiency standards for inclusion in the State Building Code that result in greater energy efficiency and increased energy savings in major facility construction and renovation projects under this Article, and shall monitor other standards for sustainable, energy-efficient buildings that are based upon recognized, consensus standards based on science and demonstrated performance.

(b) Each year, the Department shall report the results of its monitoring under this section, including any recommendations for administrative or legislative proposals."

SECTION 2. G.S. 115D-20 is amended by adding a new subdivision to read:

"(14) To comply with the design and construction requirements regarding energy efficiency and water use in the Sustainable Energy-Efficient Buildings Program under Article 8C of Chapter 143 of the General Statutes."

SECTION 3. Article 6 of Chapter 146 of the General Statutes is amended by adding a new section to read:

"§ 146-23.2. Purchase of buildings constructed or renovated to a certain energy-efficiency standard.

(a) A State agency shall not acquire by purchase any building unless the building was designed and constructed to at least the same standards for energy efficiency and water use that the design and construction of a comparable State building was required to meet at the time the building under consideration for purchase was constructed. Further, a State agency shall not acquire by purchase any building that had a major renovation unless the major renovation of the building was designed and constructed to at least the same standards for energy efficiency and water use that the design and construction of a major renovation of a comparable State building was required to meet at the time the building under consideration for purchase was renovated.

(b) This section does not apply to the purchase of a building having historic, architectural, or cultural significance under Part 4 of Article 2 of Chapter 143B of the General Statutes. This section does not apply to buildings that are acquired by devise or gift."

SECTION 4. The initial report under G.S. 143-135.37(e), the initial report under G.S. 143-135.39(f), and the initial report under G.S. 143-135.40 are due no later than August 1, 2009. The initial consolidated report required under G.S. 143-135.39(g) is due no later than October 1, 2009.

SECTION 5. Section 1 of S.L. 2007-546 is repealed.

SECTION 6. Section 2.1(a)(1) of S.L. 2007-546 reads as rewritten:

"(1) Lighting Systems. – The installation of exit signs that employ light-emitting diode (LED) technology or photo luminescent technology; the replacement of incandescent light bulbs with compact fluorescent light bulbs; and where appropriate, as determined by the Department of Administration, the installation of occupancy sensors or optical sensors."

SECTION 7. This act is effective when it becomes law. Section 1 and Section 2 of this act apply to every major facility construction project, as defined in G.S. 143-135.36 as enacted in Section 1 of this act, and every major facility renovation

project, as defined in G.S. 143-135.36 as enacted in Section 1 of this act, of a public agency, as defined in G.S. 143-135.36 as enacted in Section 1 of this act, that has not entered the schematic design phase prior to the effective date of this act.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 5:00 p.m. on the 8th day of August, 2008.

Session Law 2008-204

S.B. 1925

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; TO REVISE UNIVERSITY GENERAL OBLIGATION INDEBTEDNESS; TO ALLOW THE UNIVERSITY OF NORTH CAROLINA TO CREATE AN AIRPORT AUTHORITY TO SUPPORT THE MISSION OF THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL OR THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM; TO AUTHORIZE THE STATE EDUCATION ASSISTANCE AUTHORITY TO SET THE INTEREST RATE FOR THREE SCHOLARSHIP LOAN PROGRAMS AT A RATE NOT TO EXCEED TEN PERCENT PER ANNUM; AND TO MODIFY THE RESPONSIBILITIES OF THE NORTH CAROLINA FEDERAL TAX REFORM ALLOCATION COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. SELF-LIQUIDATING PROJECTS

SECTION 1.1. The purpose of this act is: (i) to authorize the construction by certain constituent institutions of The University of North Carolina of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, liquidating indebtedness, Medicare reimbursements for education costs, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State.

SECTION 1.2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1.1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 1.5 of this act, or by both, are as follows:

Appalachian State University

Kidd Brewer Stadium Improvements	\$8,300,000
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East Carolina University

Athletic Facilities Expansion and Improvements	30,000,000
Dining Facilities Improvements	9,700,000
Residence Halls Improvements and Expansion	28,500,000
Dowdy-Ficklen Stadium Improvements	24,000,000

North Carolina Central University	
Student Facilities Improvements	11,500,000
North Carolina State University	
Student Health Center Expansion	10,900,000
Avent Ferry Administration Center Renovation	5,200,000
Centennial Campus Tenant Space Renovations	10,000,000
Collaborative Research Building I	35,000,000
The University of North Carolina at Chapel Hill	
Athletic Facilities Renovation and Expansion	7,023,000
Carmichael Auditorium – Supplement	9,500,000
Carmichael Residence Hall – Supplement	1,300,000
Dental Sciences Teaching and Learning Building	26,000,000
Fetzer Gymnasium Expansion	2,500,000
Kenan Stadium Expansion, Phase I	50,000,000
Mary Ellen Jones Animal Facility Renovation	10,000,000
Medical Research Building D Renovation and Expansion	5,000,000
Old East and Old West Residence Halls Improvements – Supplement	3,200,000
Research Resource Facility – Phase III	8,600,000
Robertson Scholars Site Preparation	1,900,000
Woollen Gymnasium (Sports Medicine) – Supplement	1,500,000
Chilled Water Infrastructure	6,000,000
Cogeneration and Steam Infrastructure Improvements and Expansion	17,700,000
Electrical Infrastructure Improvements	13,500,000
The University of North Carolina at Charlotte	
Residence Hall Fire Suppression Sprinkler System Installation	16,200,000
The University of North Carolina at Greensboro	
Cone Residence Hall Fire Alarm System Replacement	948,000
North and South Spencer Residence Hall Improvements	5,978,000
Baseball Locker Room and Training Facility	2,800,000
The University of North Carolina at Wilmington	
Student Recreation Center Expansion	35,000,000
Winston-Salem State University	
Student Activities Center	3,750,000

SECTION 1.3. Pursuant to G.S. 143C-8-12, the following projects are authorized for planning only and, for that purpose, are to be funded entirely with non-General Fund money:

Appalachian State University	
Student Residential, Learning and Activity Development – Advance Planning	\$6,400,000

Fayetteville State University

Student Residence Hall and Fitness Center – Advance Planning	5,900,000
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The University of North Carolina at Charlotte

Partnership, Outreach, and Research for Accelerated Learning (PORTAL) Building – Advance Planning	5,000,000
Motorsports Building II – Advance Planning	800,000

UNC Health Care System

Inpatient Bed Tower and Operating Room Facility	16,275,000
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SECTION 1.4. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations.

SECTION 1.5. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Section 1.2 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Section 1.2 of this act plus twenty-five million dollars (\$25,000,000) for related additional costs, such as issuance expenses, funding of reserve funds, and capitalized interest.

SECTION 1.6. With respect to the University of North Carolina at Chapel Hill's Research Resource Facility – Phase III capital project, East Carolina University's Athletic Facilities Expansion and Improvements capital project, and North Carolina State University's Avent Ferry Administration Center Renovation capital project, the institution may accomplish construction and financing notwithstanding the requirement in G.S. 116D-22(5) as to location at the institution.

SECTION 1.7. With respect to the University of North Carolina at Chapel Hill's Kenan Stadium – Expansion, Phase I, capital project, the institution may accomplish construction and financing through lease arrangements to and from the Educational Foundation, Inc., or any other special purpose entity created for that purpose. After the completion of the renovation and improvement and acquisition of the project by the institution, and notwithstanding any provision of the General Statutes governing the negotiation and execution of contracts or leases for the operation and management of a facility, the institution may provide for the operation and management of all or part of the renovated and improved portion of Kenan Stadium by contracting with the Educational Foundation, Inc., or by leasing that portion of Kenan Stadium to the Educational Foundation, Inc., or by contracting with or leasing to any other special purpose entity created for that purpose.

SECTION 1.8. With respect to Appalachian State University's Kidd Brewer Stadium Improvements capital project, the institution may accomplish construction and financing through lease arrangements to and from the Appalachian State University Foundation, Inc.

SECTION 1.9. With respect to the University of North Carolina at Chapel Hill's Cogeneration and Steam Infrastructure Improvements and Expansion capital project, the institution may accomplish the construction and financing of the Landfill Gas Utilization portion thereof notwithstanding the requirement in G.S. 116D-22(5) as to location of the special obligation project at the institution. The University of North Carolina at Chapel Hill may enter into any other required agreements as necessary for the completion of the improvements, notwithstanding any other provisions of the General Statutes governing such acquisition, negotiation, and execution of such rights-of-way, easements, leases, or other required agreements therefor.

PART II. REVISE UNIVERSITY GENERAL OBLIGATION INDEBTEDNESS

SECTION 2. 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 Chapel Hill by reducing the scope of "Berryhill Laboratory Building – Comprehensive Renovation." The unused funds from "Berryhill Laboratory Building – Comprehensive Renovation" should be transferred to a new capital project "Division of Laboratory Animal Medicine Upfits." Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Chapel Hill by:

- (1) Reducing the portion to "Berryhill Laboratory Building – Comprehensive Renovation" by eight million six hundred thousand dollars (\$8,600,000) so that it reads two million one hundred thousand dollars (\$2,100,000); and
- (2) Adding a new project entitled "Division of Laboratory Animal Medicine – Upfits" with an amount of eight million six hundred thousand dollars (\$8,600,000).

PART III. PROCUREMENT MODIFICATIONS

SECTION 3. G.S. 142-94 reads as rewritten:

"§ 142-94. Procurement of capital facilities.

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2. With the exception of Article 8 of Chapter 143 of the General Statutes, this section does not apply to any special indebtedness issued pursuant to this Article for the purchase, construction, or operation of capital facilities by Gateway University Research Park, Inc., a joint Millennial Campus in Greensboro."

PART IV. ALLOW THE UNIVERSITY OF NORTH CAROLINA TO CREATE AN AIRPORT AUTHORITY

SECTION 4.1. G.S. 116-11 is amended by adding a new subdivision to read:

"(12c) The Board of Governors may create one airport authority to support the missions of the University of North Carolina at Chapel Hill or the University of North Carolina Health Care System. An authority so created shall be a political subdivision of the State. The territorial jurisdiction of the authority shall be the county in which the the airport may be established under G.S. 116-271(c). Article 33 of this Chapter provides for such authorities."

SECTION 4.2. Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 33.

"Airport Authorities.

"§ 116-271. General provisions.

(a) As provided by G.S. 116-11(12c), the Board of Governors may create one airport authority to support the missions of the University of North Carolina at Chapel Hill or the University of North Carolina Health Care System. An authority so created shall be a political subdivision of the State. The territorial jurisdiction of the authority shall be the county in which the airport may be established under subsection (c) of this section.

(b) To create an airport authority under this Article, the Board of Governors by resolution shall:

- (1) Name the authority.
- (2) Describe the input from affected local jurisdictions.
- (3) Consider eligibility for State and federal funding.
- (4) Find that the authority is essential to support the missions of The University of North Carolina.

(c) An airport established under this Article may only be established in Orange County. The sole purpose of the authority is to resite Horace Williams Airport and operate the resited airport.

(d) No member of the General Assembly may serve on an airport authority created under this Article.

"§ 116-272. Single or multi-institution authority membership.

(a) Where an airport authority is created to support the mission of the University of North Carolina at Chapel Hill, it shall consist of 15 members appointed as follows:

- (1) One member shall be appointed by the General Assembly for a three-year term upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121;
- (2) One member shall be appointed by the General Assembly for a three-year term upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121;
- (3) Eight members shall be appointed to three-year terms by the Board of Governors upon recommendation of the Board of Trustees of the University of North Carolina at Chapel Hill, provided that four of the initial members so appointed shall serve terms of three years and four shall serve terms of two years;
- (4) Three members shall be appointed by the board of commissioners of the county having territorial jurisdiction over the authority as provided by subsection (b) of this section; and
- (5) Two members shall be appointed by the municipalities within that county as provided by subsection (c) of this section.

An airport authority may also be created to support the mission of one constituent institution and the University of North Carolina Health Care System. If the airport authority is created to support the mission of one constituent institution and the University of North Carolina Health Care System, then the eight members appointed by the Board of Governors shall include an equal number of representatives of the constituent institution and the University of North Carolina Health Care System. If it is impossible to appoint an equal number from each, then the Board of Governors shall determine a fair representation on the airport authority from each such entity.

(b) The board of commissioners of the county with territorial jurisdiction over the authority shall appoint three members. One of the initial members shall be appointed for a one-year term, one for a two-year term, and one for a three-year term. Successors shall be appointed for three-year terms.

(c) The municipality with the largest population within the county having territorial jurisdiction over the authority based on the most recent decennial federal census shall appoint one member for a two-year term. The municipalities with the second and third largest populations within that county based on the most recent decennial federal census shall alternately appoint one member for a two-year term, with the second largest municipality making the initial appointment.

(d) All vacancies on the authority shall be filled by the governing board authorized to make the initial appointment, and the appointment is for the remainder of the unexpired term, except that vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

"§ 116-273. UNC Health Care System authority membership.

(a) Where an airport authority is created to support the mission of the University of North Carolina Health Care System, it shall consist of 15 members appointed as follows:

- (1) One member shall be appointed by the General Assembly for a three-year term upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121;
- (2) One member shall be appointed by the General Assembly for a three-year term upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121;
- (3) Eight members shall be appointed to three-year terms by the Board of Directors, provided that four of the initial members so appointed shall serve terms of three years and three shall serve terms of two years;
- (4) Three members shall be appointed by the board of commissioners of the county or counties having territorial jurisdiction over the authority as provided by subsection (b) of this section; and
- (5) Two members shall be appointed by the municipalities within that county as provided by subsection (c) of this section.

(b) The board of commissioners of the county with territorial jurisdiction over the authority shall appoint three members. One of the initial members shall be appointed for a one-year term, one for a two-year term, and one for a three-year term. Successors shall be appointed for three-year terms.

(c) The municipality with the largest population within the county having territorial jurisdiction over the authority based on the most recent decennial federal census shall appoint one member for a two-year term. The municipalities with the second and third largest populations within that county based on the most recent

decennial federal census shall alternately appoint one member for a two-year term, with the second largest municipality making the initial appointment.

(d) All vacancies on the authority shall be filled by the governing board authorized to make the initial appointment, and the appointment is for the remainder of the unexpired term, except vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

"§ 116-274. General powers.

(a) An authority created under this Article has all powers that a city or county has under Articles 1 through 7 of Chapter 63 of the General Statutes and, in regard to financing capital expenditures and operations, shall have such powers as are delegated to or conferred upon the constituent institutions or the University of North Carolina Health Care System. Notwithstanding other provisions of law, both regulations adopted by an authority under this Article and development regulations adopted by a county or municipality under Article 18 of Chapter 153A or Article 19 of Chapter 160A of the General Statutes shall be applicable to land owned by and the approaches to land owned by an authority created under this Article. In the event the regulations conflict, the more restrictive regulation applies.

(b) In addition to the powers granted by subsection (a) of this section, an authority created under this Article has the following powers:

- (1) To sue and be sued in the name of the airport authority, and all pleadings served upon the airport authority shall be served on the chairperson or secretary of the airport authority.
- (2) To expend funds appropriated to it from time to time for airport purposes and to expend funds received by the authority from fees, charges, rents, and dues arising out of the operation of the airport, the facilities, improvements, and concessions located thereat or operated thereon.
- (3) To establish, construct, control, lease, maintain, improve, operate, and regulate an airport on lands acquired by it with buildings necessary to accommodate all types of business to operate an airport, runways, taxi ramps, parking ramps, and any equipment to operate an airport, to have complete authority for rules and regulations over all airport property for the control of all types of vehicular traffic, mobile or stationary, and pedestrian traffic with respect to areas or roadways not under the control of the Department of Transportation and any rules adopted by the airport authority for property exclusively under its control, and to have conjunctive authority to work with and cooperate with all duly constituted law enforcement agencies to enforce rules established by the State of North Carolina. The penalty for violation of rules established by the airport authority shall be a Class 3 misdemeanor and, upon conviction, shall be punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days. All rules and regulations so adopted by the airport authority shall be recorded by delivering true copies thereof certified by the chairperson and secretary of the authority to the Secretary of the Board of Governors and to the Secretary of State.
- (4) The authority may acquire by purchase or gift any property for the purpose of establishing, extending, enlarging, or improving an airport. The authority does not possess the power of eminent domain over

property held on July 1, 2008 by a tax-exempt Internal Revenue Code section 501(c)(3) organization organized for educational purposes. In all other cases, the authority possesses the power of eminent domain and may acquire property by eminent domain for the purpose of establishing, extending, enlarging, or improving an airport. In cases where the authority may exercise the power of eminent domain, the authority is declared to be a local public condemnor under the provisions of Chapter 40A of the General Statutes and in exercising the powers of eminent domain shall follow the procedures of Article 3 of Chapter 40A of the General Statutes. Title to the property and the right of immediate possession shall vest pursuant to subsection (a) of G.S. 40A-42. If property acquired by condemnation contains a burial ground or graveyard, then it shall be lawful for the airport authority after 30 days' notice to the surviving spouse, or the next of kin of the deceased buried therein, or the person in control of the graves, if any are known, to remove the body interred therein and reinter the same in some cemetery in the same county. If no surviving spouse or next of kin or person in control can be found, then the airport authority can advertise for four consecutive weeks in a newspaper published in the county of the intended removal of the gravesite, and the removal shall be conducted under the supervision of the clerk of the superior court for that county or his or her representative, and the expense of such removal shall be borne by the airport authority. The airport authority may dispose of any real or personal property belonging to it according to the procedures described in Article 12 of Chapter 160A of the General Statutes.

- (5) To lease to other entities for a term not to exceed 20 years and for purposes not inconsistent with airport purposes or usage, real or personal property or both, under the supervision of or administered by the airport authority.
- (6) To contract with persons, firms, or corporations for terms not to exceed 20 years, for the operation of passenger and freight flights, scheduled or nonscheduled, and any other plane or flight activities not inconsistent with airport operations and to charge and collect reasonable fees, charges, and rents for the use of such property and services rendered in the operation thereof.
- (7) To operate, own, control, regulate, lease, or grant to others the license to operate amusements or concessions for a term not exceeding 20 years.
- (8) To enter into contracts to pledge as security the property of the airport authority.
- (9) To pledge any lease agreement to which it is a party as security for any loan.
- (10) To adopt and use a seal.
- (11) To contract with the Federal Aviation Administration of the United States of America or with the State of North Carolina or with any of the agencies or representatives of either of said governmental bodies relating to the grading, constructing, equipping, improving, maintaining, or operating of an airport or its facilities, or both.

- (12) To receive refunds of sales and use taxes under G.S. 105-164.14(c).
- (13) To accept grants, loans, or contributions from the United States, the State of North Carolina, or any agency or instrumentality of either of them, or from any county or other municipality, and to expend the proceeds for any purposes of the authority.
- (14) To accept grants, loans, or contributions from nonprofit organizations and to expend the proceeds for any purposes of the authority.
- (15) To adopt organizational bylaws that shall include, but not be limited to, provision for election, duties, and terms of a Chair and Secretary.
- (16) To borrow money in accordance with Article V of Chapter 159 of the General Statutes, provided that all powers and duties conferred on the Local Government Commission shall for purposes of this section be held by the Board of Governors.

(c) The authority shall enjoy governmental immunity, however, the authority may contract to insure itself and any of its officers, agents, or employees against liability for wrongful death or negligence or intentional damage to persons or property or against absolute liability for damage to persons or property caused by an act or omission of the authority or of any of its officers, agents, or employees when acting within the scope of their authority and the course of their employment. The members of the authority shall determine what liabilities and what officers, agents, and employees shall be covered by any insurance purchased pursuant to this provision.

Purchase of insurance pursuant to this provision waives the authority's governmental immunity to the extent of insurance coverage for any act or omission occurring in the exercise of a governmental function. By entering into an insurance contract with the authority, an insurer waives any defense based upon the governmental immunity of the authority.

If the authority has waived its governmental immunity pursuant to the foregoing provisions of this section, any person, or if he dies, his personal representative, sustaining damages as a result of an act or omission of the authority or any of its officers, agents, or employees occurring in the exercise of a governmental function, may sue the authority for recovery of damages. To the extent of the coverage of insurance purchased pursuant to this section, governmental immunity may not be a defense to the action. Otherwise, however, the authority has all defenses available to private litigants in any action brought pursuant to these provisions without restriction, limitation, or other effect whether the defense arises from common law or by virtue of a statute.

"§ 116-275. Cessation of operation.

In the event of cessation of the operation of an airport established under this Article, or the abandonment of any of the property acquired hereunder for airport purposes, the title to such real or personal property or rights under any existing lease shall vest in The University of North Carolina, and upon the sale of any property after cessation of operations, the proceeds therefrom shall first be distributed pro rata to the constituent university member or to the University of North Carolina Health Care System to reimburse their or their affiliated foundations' investments in the authority and thereafter shall vest in the University."

PART V. INTEREST RATE FOR SCHOLARSHIP LOAN PROGRAMS

SECTION 5.1. G.S. 90-171.62(a) reads as rewritten:

"(a) All scholarship loans shall be evidenced by notes made payable to the State Education Assistance Authority that bear interest at ~~the rate of~~ a rate not to exceed ten

percent (10%) per year as set by the Authority and beginning 90 days after completion of the nursing education program, or 90 days after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated upon the recipient's withdrawal from school or by the recipient's failure to meet the standards set by the Commission."

SECTION 5.2. G.S. 90-171.101(a) reads as rewritten:

"(a) All scholarship loans shall be evidenced by notes made payable to the State Education Assistance Authority that bear interest at ~~the rate of~~ a rate not to exceed ten percent (10%) per year as set by the Authority and beginning 90 days after completion of the nursing education program, or 90 days after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated upon the recipient's withdrawal from school or by the recipient's failure to meet the standards set by the Commission."

SECTION 5.3. G.S. 116-74.43(a) reads as rewritten:

"(a) All scholarship loans shall be evidenced by notes made payable to the State Education Assistance Authority that bear interest at ~~the rate of~~ a rate not to exceed ten percent (10%) per year as set by the Authority and beginning 90 days after completion of the school administrator program, or 90 days after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated upon the recipient's withdrawal from school or by the recipient's failure to meet the standards set by the Commission."

SECTION 5.4. This section becomes effective January 1, 2009, and applies to all scholarship loans issued on and after July 1, 2009.

PART VI. MODIFY TRAC RESPONSIBILITIES

SECTION 6.1. G.S. 143-433.6 reads as rewritten:

"§ 143-433.6. Legislative findings.

(a) The General Assembly finds and determines that the Tax Reform Act of 1984 established a federal volume limitation upon the aggregate amount of "private activity bonds" that may be issued by each state; that, pursuant to Section 103(n) of the Internal Revenue Code of 1954, as amended, a previous Governor of North Carolina issued Executive Order 113 proclaiming a formula for allocating the federal volume limitation for North Carolina; that on October 22, 1986, the Tax Reform Act of 1986, hereinafter referred to as the "Tax Reform Act", was enacted; that the Tax Reform Act (i) establishes a new unified limitation for private activity bonds on a state by state basis, (ii) establishes a new definition of the types of private activity bonds to be included under those new limitations, (iii) establishes a new low-income housing credit to induce the construction of and the improvement of housing for low-income people, and (iv) limits the aggregate use of this low-income housing credit on a state by state basis; that the Tax Reform Act provides for federal formulas for the allocation of these "state by state" resources, and also provides for states which cannot use the federal formula for allocation to set allocation procedures and formulas which are more appropriate for the individual states; that the Tax Reform Act gives authority for the legislature of each state to formulate and execute plans for allocation; and that Section 146 of the Internal Revenue Code of 1986, as amended, and Section 42 of the Internal Revenue Code of 1986, as amended, will require continued inquiry and study in the ways in which North Carolina can best and most fairly manage and utilize resources provided therein.

(b) The General Assembly further finds and determines that the Economic Growth and Tax Relief Reconciliation Act of 2001 added new subsections (a)(13) and

(k) to section 142 of the Internal Revenue Code of 1986, as amended, which (i) establish a new type of private activity bond that can be issued to finance "qualified public educational facilities," (ii) establish an annual aggregate limitation on the face amount of qualified public educational facility bonds that may be issued on a state-by-state basis, (iii) provide that each state may allocate the annual aggregate limitation for any calendar year in such manner as each state determines appropriate, and (iv) provide for an elective carryforward by each state of the unused annual aggregate limitation; and that subsections (a)(13) and (k) will require continued inquiry and study in the ways in which North Carolina can best and most fairly manage and utilize the resource provided therein."

SECTION 6.2. G.S. 143-433.8 reads as rewritten:

"§ 143-433.8. Duties.

The Committee ~~may~~ shall perform the following duties:

- (1) Manage the allocation of ~~tax exempt private activity bonds and low income housing credits~~ private activity bonds, low-income housing credits, and qualified public educational facility bonds and receive advice from bond issuers, elected officials, and the General Assembly.
- (2) Continue to monitor bond markets, economic development financing trends, school financing trends, housing markets, and tax incentives available to induce events and programs favorable to North Carolina, its cities and counties, and individual citizens.
- (3) Continue to study the ways in which North Carolina can best and most fairly manage and utilize the allocation of ~~private activity bonds and low income housing credits~~ private activity bonds, low-income housing credits, and qualified public educational facility bonds.
- (4) Report to the Governor, Lieutenant Governor, ~~and the Speaker of the House of Representatives~~ Representatives, the President Pro Tempore of the Senate, and the Revenue Laws Study Committee as requested and on not less than an annual basis. The annual report is due by November 1 of each year."

SECTION 6.3. G.S. 143-433.9(a) reads as rewritten:

"(a) To provide for the orderly and prompt issuance of private activity bonds and qualified public educational facility bonds, there are hereby proclaimed formulas for allocating the following: (i) the unified volume ~~limitation and~~ limitation, (ii) the state housing credit ~~ceiling ceiling~~, and (iii) the annual aggregate limitation on the face amount of qualified public educational facility bonds. The unified volume limitation for all issues of private activity bonds, other than qualified public educational facility bonds, in North Carolina shall be considered as a single resource to be allocated under this Article. The annual aggregate limitation on the face amount of qualified public educational facility bonds for all issues in North Carolina shall be considered as a single resource to be allocated under this Article. The Committee shall issue the following: (i) allocations of the unified volume ~~limitation and shall issue~~ limitation, (ii) allocations of the ~~State Housing Credit Ceiling~~ state housing credit ceiling, and (iii) allocations of the aggregate limitation on the face amount of qualified public educational facility bonds. The Committee shall set forth procedures for making such allocations and in the making of such allocations shall take into consideration the best interest of the State of North Carolina with regard to the economic ~~development development~~, school facility needs, and general prosperity of the people of North Carolina. The Committee shall make all elective carryforwards of the unused unified volume limitation and the annual aggregate

limitation on the face amount of qualified public educational facility bonds on behalf of the State."

SECTION 6.4. This section is effective when it becomes law.

PART VII. EFFECTIVE DATE

SECTION 7. 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, 2008.

Became law upon approval of the Governor at 5:04 p.m. on the 8th day of August, 2008.

Session Law 2008-205

H.B. 2768

AN ACT TO AMEND THE LAW PROHIBITING HUNTING AND FISHING ON PRIVATE PROPERTY IN ORANGE COUNTY WITHOUT WRITTEN PERMISSION FROM THE LANDOWNER OR LESSEE, TO INCREASE THE FEES COLLECTED FROM PARTICIPANTS IN THE DISABLED SPORTSMAN PROGRAM ADMINISTERED BY THE WILDLIFE RESOURCES COMMISSION, AND TO PROVIDE THAT HOLDERS OF HUNTING AND FISHING LICENSES ISSUED TO THE DISABLED ARE ELIGIBLE TO PARTICIPATE IN THE DISABLED SPORTSMAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 1 of S.L. 2007-264 reads as rewritten:

"**SECTION 1.** It is unlawful to take wildlife or attempt to take wildlife on the land of another, or to fish on the land of another, without having on one's person while hunting or fishing the written permission, signed and dated for the current hunting or fishing season, of the landowner or lessee, or the landowner's or lessee's designee. The written permission shall not be valid for more than one year and may be valid for a shorter period stated in the permission. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other law enforcement officers with general subject matter jurisdiction. A person shall have written permission to hunt or fish for purposes of this act if a landowner or lessee has granted permission to a hunting club to hunt or fish on the person's land and the person is carrying both a current membership card demonstrating the person's membership in the hunting club and a copy of valid written permission granted to the hunting club that complies with the requirements of this act."

SECTION 1.(b) This section applies only to Orange County.

SECTION 2. G.S. 113-296 reads as rewritten:

"§ 113-296. **Disabled Sportsman Program.**

(a) The Disabled Sportsman Program is established, to be developed and administered by the Wildlife Resources Commission. The Disabled Sportsman Program shall consist of special hunting and fishing activities adapted to the needs of persons with the disabilities described in subsection (b) of this section.

(b) In order to be eligible for participation in the Disabled Sportsman Program established by this section, an individual must be a holder of a Resident Disabled

Veteran or Resident Totally Disabled license or must be able to certify through competent medical evidence one of the following disabilities:

- (1) Missing fifty percent (50%) or more of one or more limbs, whether by amputation or natural causes.
- (2) Paralysis of one or more limbs.
- (3) Dysfunction of one or more limbs rendering the individual unable to perform the tasks of grasping and lifting with the hands and arms or unable to walk without mechanical assistance, other than a cane.
- (4) Disease, injury, or defect confining the individual to a wheelchair, walker, or crutches.
- (5) Legal deafness.
- (6) Legal blindness, for purposes of participation in disabled fishing only.

The disability must be permanent, and an individual loses eligibility to participate in the Disabled Sportsman Program when the specified disability ceases to exist.

(c) A person who qualifies under subsection (b) of this section may apply for participation in the Disabled Sportsman Program by completing an application supplied by the Wildlife Resources Commission and by supplying the medical evidence necessary to confirm the person's disability. In order to participate in activities under the Program, each disabled participant may be accompanied by an able-bodied companion, who may also participate in the hunting, fishing, or other activity. The Commission shall charge each disabled participant an application fee of ~~five dollars (\$5.00) for each special hunt for disabled persons for which the disabled hunter applies not to exceed ten dollars (\$10.00) annually~~ ten-dollars (\$10.00) to defray the cost of processing the application and administering the special activities provided under the Program. An applicant may apply for any or all available Disabled Sportsman hunts at the time of application for a single fee. Any subsequent applications shall be accompanied by an additional ten-dollar (\$10.00) application fee. The participant and the participant's companion shall also obtain any applicable hunting, fishing, or other special license required for the activities.

(d) In developing the Disabled Sportsman Program, the Wildlife Resources Commission shall:

- (1) Establish special seasons and bag limits for hunting all or selected species of wildlife;
- (2) Authorize the manner for taking wildlife, consistent with State law;
- (3) Permit the use of vehicles and other means of conveyance in areas normally closed to such use;
- (4) Set special fishing seasons and size and creel limits for inland fish; and
- (5) Permit the use of crossbows or other specially equipped bows by persons incapable of arm movement sufficient to operate a longbow, recurve bow, or compound bow, but only during a season for hunting with bow and arrow and only during a special hunt organized and supervised by the Wildlife Resources Commission for the Disabled Sportsman Program; and
- (6) Alter any other established rules of the Wildlife Resources Commission pertaining to hunting, fishing, or special activities, as generally applicable or as applicable to game lands, for the purpose of providing access to disabled persons participating in the Disabled Sportsman Program.

The Wildlife Resources Commission may use its game lands for purposes of conducting special activities for the Disabled Sportsman Program, and may enter into agreements with other landholders for purposes of conducting special activities on private lands.

(e) The Wildlife Resources Commission may establish special activities under the Disabled Sportsman Program for any class or classes of disability described in subsection (b) of this section. The Commission shall publicize these activities through the public media and in the Commission's publications to ensure that disabled persons are notified of the activities and informed about the application process.

(f) The Wildlife Resources Commission shall hold at least four special hunting activities under the Disabled Sportsman Program per calendar year. The Commission shall alternate the location of these special activities so as to provide equal access to disabled persons in all regions of the State."

SECTION 3. Section 1 of this act becomes effective October 1, 2008, and applies to offenses committed on or after that date. Section 2 of this act becomes effective July 1, 2008. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 9:27 a.m. on the 9th day of August, 2008.

Session Law 2008-206

H.B. 2558

AN ACT TO REQUIRE LICENSED HOME INSPECTORS TO OBTAIN A PRIVILEGE LICENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-41(a) is amended by adding a new subdivision to read:

"(12) A home inspector licensed under Article 9F of Chapter 143 of the General Statutes."

SECTION 2. Notwithstanding G.S. 105-41(h), a city that imposed a license tax on a home inspector licensed under Article 9F of Chapter 143 of the General Statutes for fiscal year 2008-2009 may impose and collect that tax for fiscal year 2008-2009. A city may not levy a license tax on this business or profession for taxable years beginning on or after July 1, 2009.

SECTION 3. Notwithstanding the July 1 due date in G.S. 105-33, a home inspector required under this act to obtain a State privilege license on July 1, 2008, for the taxable year beginning on July 1, 2008, has until October 1, 2008, to submit an application for licensure and pay the tax.

SECTION 4. This act is effective when it becomes law and applies to taxable years beginning on or after July 1, 2008.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 9:30 a.m. on the 9th day of August, 2008.

Session Law 2008-207

H.B. 2530

AN ACT TO MAKE ADMINISTRATIVE CHANGES TO THE SOLID WASTE DISPOSAL TAX AND TO ALLOW A REFUND FOR ALL UNSALABLE OTHER TOBACCO PRODUCTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-187.62 reads as rewritten:

"§ **105-187.62. Administration.**

(a) Collection. – The owner or operator of each landfill and transfer station permitted pursuant to Article 9 of Chapter 130A of the General Statutes ~~shall~~ must maintain scales designed to determine waste tonnage that are approved by the Department of Agriculture and Consumer Services. Each owner or operator ~~shall~~ must record waste tonnage ~~at the time the waste is received~~ disposed of in a landfill or transferred to a station for disposal outside the State and must maintain other records as required by the Secretary of Revenue. An owner or operator may add the amount of the solid waste disposal tax due to the charges made to a third party for disposal of municipal solid waste or construction and demolition debris. ~~The tax imposed by this Article is payable and a return is due to be filed in the same manner as required under G.S. 105-164.16 for sales and use tax.~~

(b) Payment. – The tax imposed by this Article is payable when a return is due. A return and payment are due on a quarterly basis. A quarterly return covers a calendar quarter and is due by the last day of the month following the end of the quarter.

(c) Bad Debt Deduction. – In the event that an owner or operator pays the tax on tonnage received from a customer and the account of that customer is found to be worthless and charged off for income tax purposes, the owner or operator may recover the tax paid on the tonnage it received but for which it was never compensated. The tax shall be recovered by reducing the overall tonnage on which the owner or operator pays tax in a calendar quarter by the tonnage for which it was never compensated from the worthless account. A local government that has paid tax on an account that is subsequently found to be worthless shall recover the tax paid in the same manner, if it meets all the conditions for recovery that would apply if the local government were subject to income tax. If the owner or operator subsequently collects on an account that has been declared worthless, any tax recovered must be repaid in the next calendar quarter."

SECTION 2. G.S. 105-187.63 reads as rewritten:

"§ **105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the Department. The Secretary ~~shall~~ must credit or distribute taxes received pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

- (1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.
- (2) ~~Eighteen and seventy five one hundredths percent (18.75%) to cities in the State on a per capita basis and eighteen and seventy five one hundredths percent (18.75%)~~ Thirty-seven and one-half percent (37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the

State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this subdivision, persons who reside within a city shall not be counted in the population of the county or counties in which the city is located. distribution, the population of a county does not include the population of a city located in the county.

A city or county is excluded from the distribution under this subdivision if it does not provide solid waste management programs and services and is not responsible by contract for payment for these programs and services, unless it is served by a regional solid waste management authority established under Article 22 of Chapter 153A of the General Statutes. The Department of Environment and Natural Resources must provide the Secretary with a list of the cities and counties that are excluded under this subdivision. The list must be provided by May 15 of each year and applies to distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision shall must be used by a unit of local government city or county solely for solid waste management programs and services. A city or county that receives funds under this subdivision and is served by a regional solid waste management authority must forward the amount it receives to that authority.

- (3) Twelve and one-half percent (12.5%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 3. Notwithstanding G.S. 105-187.63(2), as amended by this act, the Department of Environment and Natural Resources must provide a list to the Secretary of Revenue of the cities and counties that are excluded from the distribution under that subdivision by September 15, 2008. The list applies to distributions made in fiscal year 2008-2009.

SECTION 4. G.S. 105-113.39 reads as rewritten:

"§ **105-113.39. Discount; refund.**

(a) 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 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,~~ Part and the expense of furnishing a bond.

(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under ~~G.S. 150-113.35(b)~~ G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable ~~cigars tobacco products~~ upon which the tax has been paid may return the ~~cigar~~stobacco products 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 cigars~~listing the tobacco products returned to the manufacturer by the applicant. The Secretary shall refund the tax paid, less the discount allowed, on the ~~unsalable cigars.~~listed products."

SECTION 5. Section 4 of this act becomes effective October 1, 2008, and applies to products returned 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 17th day of July, 2008.

Became law upon approval of the Governor at 9:37 a.m. on the 9th day of August, 2008.

Session Law 2008-208

H.B. 819

AN ACT TO AMEND THE REQUIREMENTS GOVERNING MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT, TO PROVIDE FOR MANAGEMENT OF DISCARDED TELEVISIONS, TO DELAY THE EFFECTIVE DATE UNTIL 1 JANUARY 2010, AND TO MAKE OTHER CONFORMING AND TECHNICAL CHANGES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes reads as rewritten:

"Part 2E. Discarded Computer Equipment and Television Management.

"§ 130A-309.90. **Findings.**

The General Assembly ~~makes the following findings:~~ finds that:

- (1) The computer equipment and television waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.
- (2) It is in the best interests of the citizens of this State to have convenient, simple, and free or low-cost access to recycling services for discarded computer ~~equipment.~~ equipment and televisions.
- (3) Collection programs operated by manufacturers, and local government and nonprofit agencies are an efficient way to divert discarded computer equipment and televisions from disposal and to provide recycling services to all citizens of this State.
- (4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer ~~equipment.~~ equipment and televisions.
- (5) No ~~other~~ comprehensive system currently exists, either provided by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment and televisions from disposal.
- (6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment take part in a solution to the electronic waste problem.
- (7) The recycling of certain discarded computer equipment and televisions recovers valuable materials for reuse and will create jobs and expand the tax base of the State.
- (8) While some computers and computer monitors can be refurbished and reused and other consumer electronics products contain valuable materials, some older and bulkier consumer electronic products,

including some televisions, may not contain any valuable products but should nevertheless be recycled to prevent the release of toxic substances to the environment.

- (9) For the products covered by this Part, differences in product life expectancy, market economics, residual value, and product portability necessitate different approaches to recycling.
- (10) In order to ensure that end-of-life computer equipment and televisions are responsibly recycled, to promote conservation, and to protect public health and the environment, a comprehensive and convenient system for recycling and reuse of certain electronic equipment should be established on the basis of shared responsibility among manufacturers, retailers, consumers, and the State.

"§ 130A-309.91. Definitions.

As used in this Part, the following definitions apply:

- (1) Business entity. – Defined in G.S. 55-1-40(2a).
- (2) Computer equipment. – Any desktop central processing unit, any laptop computer, the monitor or video display unit for a computer system, and the keyboard, mice, and other peripheral equipment. Computer equipment does not include a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.
- (2a) Covered device. – Computer equipment and televisions. The term does not include a device that is:
 - a. Part of a motor vehicle or any component of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.
 - b. (i) Physically a part of or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting; (ii) equipment used for diagnostic, monitoring, or other medical products as that term is defined under the Federal Food, Drug, and Cosmetic Act; (iii) equipment used for security, sensing, monitoring, antiterrorism purposes, or emergency services purposes.
 - c. Contained within a household appliance, including, but not limited to, a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment.
- (3) Discarded computer equipment. – Computer equipment that is solid waste.
- (3a) Discarded television. – A television that is solid waste.

- (4) Discarded computer equipment or television collector. – A municipal or county government, nonprofit agency, or retailer that accepts discarded computer equipment or a television from the public.
- (5) Computer Manufacturer.~~manufacturer~~. – A person ~~who~~that manufactures computer equipment sold under its own brand or label; sells under its own brand or label computer equipment produced by other suppliers; imports into the United States computer equipment that was manufactured outside of the United States; or owns a brand that it licenses to another person for use on computer equipment. Manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment.
- (5a) Market share. – A television manufacturer's obligation to recycle discarded televisions. A television manufacturer's market share is the television manufacturer's prior year's sales of televisions as calculated by the Department pursuant to G.S. 130A-309.95(4) divided by all manufacturers' prior year's sales for all televisions as calculated by the Department pursuant to G.S. 130A-309.95(4). Market share may be expressed as a percentage, a fraction, or a decimal fraction.
- (6) Orphan discarded computer equipment. – Any discarded computer equipment for which a manufacturer cannot be identified or for which the manufacturer is no longer in business and has no successor in interest.
- (7) Retailer. – A person ~~who~~that sells computer equipment or televisions in the State to a consumer. Retailer includes a manufacturer of computer equipment or televisions that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person ~~who~~that sells computer equipment or televisions to a distributor or retailer through a wholesale transaction.
- (8) Television. – Any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of 9 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include computer equipment.
- (9) Television manufacturer. – A person that: (i) manufactures for sale in this State a television under a brand that it licenses or owns; (ii) manufactures for sale in this State a television without affixing a brand; (iii) resells into this State a television under a brand it owns or licenses produced by other suppliers, including retail establishments that sell a television under a brand that the retailer owns or licenses; (iv) imports into the United States or exports from the United States a television for sale in this State; (v) sells at retail a television acquired from an importer that is the manufacturer as described in (i) of this

subdivision, and the retailer elects to register in lieu of the importer as the manufacturer of those products; (vi) manufactures a television for or supplies a television to any person within a distribution network that includes wholesalers or retailers in this State and that benefits from the sale in this State of the television through the distribution network; or (vii) assumes the responsibilities and obligations of a television manufacturer under this Part. In the event the television manufacturer is one that manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be considered to be a television manufacturer under (i) or (iii) of this subdivision.

"§ 130A-309.92. Responsibility for recycling discarded computer equipment.~~equipment and televisions.~~

In addition to the specific requirements of this Part, discarded computer equipment and television collectors and manufacturers share responsibility for the recycling of discarded computer equipment and televisions and the education of citizens of the State as to recycling opportunities for discarded computer ~~equipment.~~equipment and televisions.

"§ 130A-309.93. Requirements for computer manufacturers.

(a) Registration and Fee Required. – Each manufacturer of computer equipment, before selling or offering for sale computer equipment in North Carolina, shall register with the Department and, at the time of registration, shall pay an initial registration fee of ten thousand dollars (\$10,000) to the Department. A computer equipment manufacturer that has registered shall pay an annual renewal registration fee of one thousand dollars (\$1,000) to the Department. The annual renewal registration fee shall be paid each year no later than the first day of the month in which the initial registration fee was paid. The proceeds of these fees shall be credited to the Computer Equipment Management Account. A manufacturer of computer equipment that sells 1,000 items of computer equipment or less per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.

(b) Manufacturer Label Required. – A manufacturer shall not sell or offer to sell computer equipment in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment.

(c) Computer Equipment Recycling Plan. – Each manufacturer of computer equipment shall develop and submit to the Department a plan for reuse or recycling of discarded computer equipment in the State produced by the manufacturer. The manufacturer shall submit a proposed plan to the Department within 120 days of registration as required by subsection (a) of this section. The plan shall:

- (1) Describe any direct take-back program to be implemented by the manufacturer, including mail-back programs and collection events.
- (2) Provide that the manufacturer will take responsibility for discarded computer equipment it manufactured.
- (3) Include a detailed description as to how the manufacturer will implement and finance the plan.
- (4) Provide for environmentally sound management practices to transport and recycle discarded computer equipment.
- (5) Describe the performance measures that will be used by the manufacturer to document recovery and recycling rates for discarded computer equipment. The calculation of recycling rates shall include the amount of discarded computer equipment managed under the

manufacturer's program divided by the amount of computer equipment sold by the manufacturer in North Carolina.

- (6) Describe in detail how the manufacturer will provide for transportation of discarded computer equipment at no cost from discarded computer equipment collectors.
- (7) Describe in detail how the manufacturer will fully cover the costs of processing discarded computer equipment received from discarded computer equipment collectors.
- (8) Include a public education plan on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements.

(d) **Computer Equipment Recycling Plan Revision.** – A manufacturer may prepare a revised plan and submit it to the Department at any time as the manufacturer considers appropriate in response to changed circumstances or needs. The Department may require a manufacturer to revise or update a plan if the Department finds that the plan is inadequate or out-of-date.

(e) **Payment of Costs for Plan Implementation.** – Each manufacturer is responsible for all costs associated with the development and implementation of its plan. A manufacturer shall not collect a charge for the management of discarded computer equipment at the time the equipment is discarded.

(f) **Joint Computer Equipment Recycling Plans.** – A manufacturer may fulfill the requirements of this section by participation in a joint recycling plan with other manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

(g) **Annual Report.** – Each manufacturer shall submit a report to the Department by 1 February of each year that includes all of the following for the previous calendar year:

- (1) A description of the collection and recycling services used to recover the manufacturer's products.
- (2) The quantity and type of computer equipment sold by the manufacturer to retail consumers in this State.
- (3) The quantity and type of discarded computer equipment collected by the manufacturer for recovery in this State for the preceding calendar year.
- (4) Any other information requested by the Department.

"§ 130A-309.93A. Requirements for television manufacturers.

(a) Each television manufacturer, before selling or offering for sale televisions in the State, shall register with the Department and, at the time of registration, shall pay an initial registration fee of two thousand five hundred dollars (\$2,500) to the Department. An initial registration shall be valid from the day of registration through the last day of the fiscal year in which the registration fee was paid. A television manufacturer that has registered shall pay an annual renewal registration fee of two thousand five hundred dollars (\$2,500) to the Department. The annual renewal registration fee shall be paid to the Department each fiscal year no later than 30 June of the previous fiscal year. The Department may charge an administrative fee of up to one hundred fifty dollars (\$150.00) for failure to pay the permit fee by 30 June of each year. The proceeds of these fees shall be credited to the Television Management Account. A television manufacturer that sells 1,000 televisions or less per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.

(b) A television manufacturer shall not sell or offer to sell any television in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment.

(c) The obligation to recycle televisions shall be allocated to each television manufacturer based on the television manufacturer's market share. A television manufacturer must annually recycle or arrange for the recycling of its market share of televisions pursuant to this section.

(d) A television manufacturer shall conduct and document due diligence assessments of the recyclers the manufacturer contracts with, including an assessment of compliance with environmentally sound recovery standards adopted by the Department.

(e) A television manufacturer shall provide the Department with contact information for the manufacturer's designated agent or employee whom the Department may contact for information related to the manufacturer's compliance with the requirements of this section.

(f) A television manufacturer may fulfill the requirements of this section either individually or in participation with other television manufacturers.

(g) A television manufacturer shall report to the Department by 1 October of each year the total weight of televisions the manufacturer collected and recycled in the State during the previous year.

"§ 130A-309.93B. Requirements applicable to retailers.

(a) A manufacturer must not sell or offer for sale or deliver to retailers for subsequent sale new televisions unless: (i) the covered device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and (ii) the manufacturer has filed a registration with the Department, as specified in this Part.

(b) A retailer that sells or offers for sale new televisions must, before the initial offer for sale, review the Department's Web site to determine that all new covered devices that the retailer is offering for sale are labeled with the manufacturer's brands that are registered with the Department.

(c) A retailer is not responsible for an unlawful sale under this section if the manufacturer's registration expired or was revoked and the retailer took possession of the covered device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

"§ 130A-309.94. Requirements for discarded computer equipment and television collectors.

Each discarded computer equipment and television collector shall ensure that discarded computer equipment and televisions received by the collector ~~is~~ are consolidated at central locations, properly stored, and either held for pickup by a manufacturer or delivered to a facility designated by a manufacturer.

"§ 130A-309.95. Responsibilities of the Department.

In addition to its other responsibilities under this Part, the Department shall:

- (1) Develop and maintain a current list of manufacturers that are in compliance with the requirements of G.S. 130A-309.93 and G.S. 130A-309.93A and provide the current list to the Office of Information Technology Services each time that the list is updated.
- (2) Develop and implement a public education program on the laws governing the recycling and reuse of discarded televisions and computer equipment under this Part and on the methods available to consumers to comply with those requirements. The Department shall

make this information available on the Internet and shall provide technical assistance to manufacturers to meet the requirements of ~~G.S. 130A-309.93(e)(8).~~ G.S. 130A-309.93(c)(8) and G.S. 130A-309.93A(c)(8). The Department shall also provide technical assistance to units of local government on the establishment and operation of discarded computer equipment and television collection centers and in the development and implementation of local public education programs.

- (3) Maintain the confidentiality of any information that is required to be submitted by a manufacturer under this Part that is designated as a trade secret, as defined in G.S. 66-152(3) and that is designated as confidential or as a trade secret under G.S. 132-1.2.
- (4) The Department shall use national televisions sales data available from commercially available analytical sources to calculate the generation of discarded televisions and to determine each television manufacturer's recovery responsibilities for televisions based on the manufacturer's market share. The Department shall extrapolate data for the State from national data on the basis of the State's share of the national population.

"§ 130A-309.96. Computer Equipment Management ~~Account.~~Account; Television Management Account.

(a) The Computer Equipment Management Account is created as a nonreverting account within the Department. Funds in the Account shall be used by the Department to implement the provisions of this Part.

(b) The Television Management Account is created as a nonreverting account within the Department. Funds in the Account shall be used by the Department to implement the provisions of this Part.

"§ 130A-309.97. Enforcement.

This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

"§ 130A-309.98. Annual report.

No later than ~~1 April~~ 15 January of each year, the Department shall submit a report on the recycling of discarded computer equipment and televisions in the State under this Part to the Environmental Review Commission. The report must include an evaluation of the recycling rates in the State for discarded computer ~~equipment, equipment and televisions,~~ a discussion of compliance and enforcement related to the requirements of this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment televisions, or other electronic devices."

"§ 130A-309.99. Local government authority not preempted.

Nothing in this Part shall be construed as limiting the authority of any local government to manage computer equipment and televisions that are solid waste."

SECTION 2. G.S. 130A-309.09A(b)(6) reads as rewritten:

- (6) Include an assessment of current programs and a description of intended actions with respect to:
 - a. Education with the community and through the schools.
 - b. Management of special wastes.
 - c. Prevention of illegal disposal and management of litter.
 - d. Purchase of recycled materials and products manufactured with recycled materials.

- e. For each county and each municipality with a population in excess of 25,000, collection of discarded computer ~~equipment, equipment and televisions,~~ as defined in G.S. 130A-309.91."

SECTION 3. G.S. 130A-309.10(f) is amended by adding a new subdivision to read:

"(15) Discarded televisions, as defined in G.S. 130A-309.91."

SECTION 4. G.S. 130A-309.10(f1) is amended by adding a new subdivision to read:

"(8) Discarded televisions, as defined in G.S. 130A-309.91."

SECTION 5. G.S. 147-33.104 reads as rewritten:

"§ **147-33.104. Purchase by State agencies and governmental entities of certain computer equipment prohibited.**

(a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

(b) No State agency, political subdivision of the State, or other public body shall purchase computer ~~equipment, equipment or televisions,~~ as defined in G.S. 130A-309.91, from any manufacturer that the Secretary determines is not determined not to be in compliance with the requirements of G.S. 130A-309.93 or G.S. 130A-309.93A as determined from the list provided by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.95(1). The Secretary shall issue written findings upon a determination of noncompliance. A determination of noncompliance by the Secretary is reviewable under Article 3 of Chapter 150B of the General Statutes.

(c) The Office of Information Technology Services shall make the list available to political subdivisions of the State and other public bodies. A manufacturer that is not in compliance with the requirements of G.S. 130A-309.93 shall not sell or offer for sale computer equipment or televisions to the State, a political subdivision of the State, or other public body."

SECTION 6. Section 16.1(b) of S.L. 2007-550 reads as rewritten:

"**SECTION 16.1.(b)** The Department shall include in the annual report for ~~4 April 15 January~~ 2011, as required by G.S. 130A-309.98, as enacted by Section 16.1(a) of this act, an analysis of the feasibility and advisability of adding additional products to the list of covered devices in deleting the exclusion of printing devices from the definition of computer equipment as set out in G.S. 130A-309.91, as enacted by Section 16.1(a) of this act."

SECTION 7. Subsections (a) and (b) of Section 16 of S.L. 2007-550 read as rewritten:

"**SECTION 16.6.(a)** Part 2E of Article 9 of Chapter 130A of the General Statutes, as enacted by Section 16.1(a) of this act, becomes effective as follows:

- (1) G.S. 130A-309.90 becomes effective 1 January ~~2009.~~ 2010.
- (2) G.S. 130A-309.91 becomes effective 1 January ~~2009.~~ 2010.
- (3) G.S. 130A-309.92 becomes effective 1 January ~~2009.~~ 2010.
- (4) G.S. 130A-309.93(a) becomes effective 1 January ~~2009.~~ 2010.
- (5) G.S. 130A-309.93(b) becomes effective 1 January ~~2009.~~ 2010.
- (6) G.S. 130A-309.93(c) becomes effective 1 ~~October 2009.~~ January 2010.
- (7) G.S. 130A-309.93(d) becomes effective 1 ~~October 2009.~~ January 2010.
- (8) G.S. 130A-309.93(e) becomes effective 1 January ~~2009.~~ 2010.
- (9) G.S. 130A-309.93(f) becomes effective 1 January ~~2009.~~ 2010.

- (10) G.S. 130A-309.93(g) becomes effective 1 February 2011.
- (10a) G.S. 130A-309.93A(a) through (f) become effective 1 January 2010.
- (10b) G.S. 130A-309.93A(g) becomes effective 1 October 2011.
- (10c) G.S. 130A-309.93B becomes effective 1 January 2010.
- (11) G.S. 130A-309.94 becomes effective 1 January 2010.
- (12) G.S. 130A-309.95(1) becomes effective 1 January ~~2009~~, 2010.
- (13) G.S. 130A-309.95(2) becomes effective 1 January ~~2009~~, 2010.
- (14) G.S. 130A-309.95(3) becomes effective 1 January ~~2009~~, 2010.
- (15) G.S. 130A-309.96 becomes effective 1 January ~~2009~~, 2010.
- (16) G.S. 130A-309.97 becomes effective 1 January ~~2009~~, 2010.
- (17) G.S. 130A-309.98 becomes effective ~~1 April~~ 15 January 2011.

SECTION 16.6.(b) Section 16.2 of this act becomes effective 1 January ~~2009~~, 2010. Sections 16.3 and 16.4 of this act become effective 1 January ~~2012~~, 2011. Section 16.5 of this act becomes effective 1 July ~~2009~~, 2010. Subsection (b) of Section 16.1 of this act, Section 16.6 of this act, and any other provision of Section 16 of this act for which an effective date is not specified become effective 1 January ~~2009~~, 2010."

SECTION 8. Sections 3, 4, and 5 of this act become effective 1 January 2011. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 9:43 a.m. on the 9th day of August, 2008.

Session Law 2008-209

H.B. 15

AN ACT TO PROVIDE THAT TEACHERS ARE NOT PENALIZED FOR TAKING PERSONAL LEAVE TIME UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-302.1(d) reads as rewritten:

"§ **115C-302.1. Salary.**

(d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated without any applicable maximum until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave may be used only upon the authorization of the teacher's immediate supervisor. A teacher shall not take personal leave on the first day the teacher is required to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school

administrative units shall not advance personal leave. Teachers using personal leave receive full salary less the required substitute ~~deduction.~~ deduction, except for teachers using personal leave on non-protected teacher workdays. Teachers using personal leave on non-protected teacher workdays shall receive full salary."

SECTION 1.(b) Subsection (a) of this section becomes effective July 1, 2008, except if House Bill 2436, 2007 Regular Session, becomes law and also amends G.S. 115C-302.1(d), then subsection (a) of this section instead becomes effective July 1, 2009.

SECTION 2. If House Bill 2436, 2007 Regular Session, becomes law, then G.S. 115C-302.1(d), as amended by Section 26.21 of that act to expire June 30, 2009, reads as rewritten:

"**SECTION 26.21.(a)** G.S. 115C-302.1(d) reads as rewritten:

(d) **Personal Leave.** – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated without any applicable maximum until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave may be used only upon the authorization of the teacher's immediate supervisor. A teacher shall not take personal leave on the first day the teacher is required to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave. Teachers using:

- (1) ~~up~~ Up to one day of personal leave per year shall receive full salary. ~~Teachers~~ Except as provided in subdivision (2) of this subsection, teachers using more than one day per year shall receive full salary less the required substitute deduction.
- (2) Personal leave receive full salary less the required substitute deduction, except for teachers using personal leave on non-protected teacher workdays. Teachers using personal leave on non-protected teacher workdays shall receive full salary.

As used in this subsection, 'teachers' means classroom teachers and media specialists who require a substitute."

SECTION 3. Except as otherwise provided, this act is effective when it becomes law. Section 2 expires at the same time that the amendment to G.S. 115C-302.1(d) made by House Bill 2436, 2007 Regular Session, expires.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 9:47 a.m. on the 9th day of August, 2008.

Session Law 2008-210

S.B. 2081

AN ACT TO REQUIRE REPORTING OF INVOLUNTARY MENTAL COMMITMENT TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; AND TO PROVIDE FOR A RESTORATION PROCESS TO REMOVE THE COMMITMENT BAR TO THE PURCHASE, POSSESSION, AND TRANSFER OF FIREARMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-54 is amended by adding the following new subsection to read:

"(d1) After a judicial determination that an individual shall be involuntarily committed for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter, the clerk of superior court in the county where the judicial determination was made shall, as soon as practicable, cause a report of the commitment to be transmitted to the National Instant Criminal Background Check System (NICS). Reporting of an individual involuntarily committed to outpatient mental health treatment under this subsection shall only be reported if the individual is found to be a danger to self or others. The clerk shall also cause to be transmitted to NICS a record where an individual is found not guilty by reason of insanity or found mentally incompetent to proceed to criminal trial. The clerk, upon receipt of documentation that an affected individual has received a relief from disabilities pursuant to G.S. 122C-54.1 or any applicable federal law, shall cause the individual's record in NICS to be updated. The record of involuntary commitment shall be accessible only by an entity having proper access to NICS and shall remain otherwise confidential as provided by this Article. The clerk shall effect the transmissions to NICS required by the subsection according to protocols which shall be established by the Administrative Office of the Courts."

SECTION 2. Article 3 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-54.1. Restoration process to remove mental commitment bar.

(a) Any individual over the age of 18 may petition for the removal of the mental commitment bar to purchase, possess, or transfer a firearm when the individual no longer suffers from the condition that resulted in the individual's involuntary commitment for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12. The individual may file the petition with a district court judge upon the expiration of any current inpatient or outpatient commitment. No individual who has been found not guilty by reason of insanity may petition a court for restoration under this section.

(b) The petition must be filed in the district court of the county where the respondent was the subject of the most recent judicial determination that either inpatient or outpatient treatment was appropriate or in the district court of the county of the petitioner's residence. An individual disqualified from firearms possession due to a comparable out-of-State mental commitment shall make application in the county of residence. The clerk of court upon receipt of the petition shall schedule a hearing using the regularly scheduled commitment court time and provide notice of the hearing to the petitioner and the district attorney. Copies of the petition must be served on the director

of the inpatient and outpatient treatment facility, in-State or out-of-State, and the district attorney in the petitioner's current county of residence.

(c) The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner no longer suffers from the condition that resulted in commitment and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12. The district attorney shall present any and all relevant information to the contrary. For these purposes, the district attorney may access and use any and all mental health records, juvenile records, and criminal history of the petitioner wherever maintained. The applicant must sign a release for the district attorney to receive any mental health records of the applicant. This hearing shall be closed to the public, unless the court finds that the public interest would be better served by conducting the hearing in public. If the court determines the hearing should be open to the public, upon motion by the petitioner, the court may allow for the in camera inspection of any mental health records. The court may allow the use of the record but shall restrict it from public disclosure, unless it finds that the public interest would be better served by making the record public. The district court shall enter an order that the petitioner does or does not continue to suffer from the condition that resulted in commitment and does or does not continue to pose a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12. The court shall include in its order the specific findings of fact on which it bases its decision. The decision of the district court may be appealed to the superior court for a hearing de novo. After a denial by the superior court, the applicant must wait a minimum of one year before reapplying. Attorneys designated by the Attorney General shall be available to represent the State, or assist in the representation of the State, in a restoration proceeding when requested to do so by a district attorney and approved by the Attorney General. An attorney so designated shall have all the powers of the district attorney under this section.

(d) Upon a judicial determination to grant a petition under this section, the clerk of superior court in the county where the petition was granted shall forward the order to the National Instant Criminal Background Check System (NICS) for updating of the respondent's record."

SECTION 3.(a) G.S. 14-404 is amended by adding the following new subsection to read:

"(g) An applicant shall not be ineligible to receive a permit under subsection (4) of subsection (c) of this section because of involuntary commitment to mental health services if the individual's rights have been restored under G.S. 122C-54.1."

SECTION 3.(b) G.S. 14-415.12 is amended by adding the following new subsection to read:

"(c) An applicant shall not be ineligible to receive a concealed carry permit under subdivision (6) of subsection (b) of this section because of involuntary commitment to mental health services if the individual's rights have been restored under G.S. 122C-54.1."

SECTION 4. The Administrative Office of the Courts may use up to twenty-five thousand dollars (\$25,000) of funds within its budget for the 2008-2009 fiscal year to carry out the provisions of this act.

SECTION 5. Sections 1 through 3 of this act become effective December 1, 2008. Section 4 of this act becomes effective July 1, 2008. 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, 2008.

Became law upon approval of the Governor at 9:52 a.m. on the 9th day of August, 2008.

Session Law 2008-211**S.B. 1967**

AN ACT TO PROVIDE FOR IMPROVEMENTS IN THE MANAGEMENT OF STORMWATER IN THE COASTAL COUNTIES IN ORDER TO PROTECT WATER QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Disapprove Rule. – Pursuant to G.S. 150B-21.3(b1), 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), as adopted by the Environmental Management Commission on 10 January 2008 and approved by the Rules Review Commission on 20 March 2008, is disapproved.

SECTION 1.(b) Supersede Rule. – 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), effective 1 September 1995, is superseded by this act. References in the North Carolina Administrative Code to 15A NCAC 02H .1005 shall be deemed to refer to the equivalent provisions of this act.

SECTION 2.(a) Definitions. – The following definitions apply to this act and its implementation:

- (1) The definitions set out in 15A NCAC 02H .1002 (Definitions).
- (2) The definitions set out in G.S. 143-212 and G.S. 143-213.
- (3) "Built upon area" has the same meaning as in Session Law 2006-246 and means that portion of a 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.
- (4) "Permeable pavement" means paving material that absorbs water or allows water to infiltrate through the paving material. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, porous asphalt, and any other material with similar characteristics. Compacted gravel shall not be considered permeable pavement.
- (5) "Residential development activities" has the same meaning as in 15A NCAC 02B .0202(54).
- (6) "Vegetative buffer" has the same meaning as in 15A NCAC 02H .1002(22) and means an area of natural or established vegetation directly adjacent to surface waters through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation due to development activities.
- (7) "Vegetative conveyance" means a permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.

SECTION 2.(b) Requirements for Certain Nonresidential and Residential Development in the Coastal Counties. – All nonresidential development activities that occur within the Coastal Counties that will add more than 10,000 square feet of built upon area or that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 and all residential development activities within the Coastal Counties that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in this subsection. A development activity or project requires a Sedimentation and Erosion Control Plan if the activity or project disturbs one acre or more of land, including an activity or project that disturbs less than one acre of land that is part of a larger common plan of development. Whether an activity or project that disturbs less than one acre of land is part of a larger common plan of development shall be determined in a manner consistent with the memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006.

- (1) Development Near Outstanding Resource Waters (ORW). – Development activities within the Coastal Counties and located within 575 feet of the mean high waterline of areas designated by the Commission as Outstanding Resource Waters (ORW) shall meet the requirements of 15A NCAC 02H .1007 (Stormwater Requirements: Outstanding Resource Waters) and shall be permitted as follows:
 - a. Low-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(1) if the development meets all of the following requirements:
 1. The development has a built upon area of twelve percent (12%) or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low-density as long as the project meets or exceeds the requirements for low-density development and locates the higher density development in upland areas and away from surface waters and drainageways to the maximum extent practicable.
 2. Stormwater runoff from the development is transported primarily by vegetated conveyances. As used in this sub-sub-subdivision, "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
 3. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of

each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and maintained in grass or any other vegetative or plant material. The Division of Water Quality may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

- b. High-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(2) if the development meets all of the following requirements:
1. The development has a built upon area of greater than twelve percent (12%).
 2. The development has no direct outlet channels or pipes to Class SA waters unless permitted in accordance with 15A NCAC 02H .0126. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
 3. The development utilizes control systems that are any combination of infiltration systems, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative low impact development stormwater management systems designed in accordance with 15A NCAC 02H .1008 to control and treat the runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and postdevelopment conditions for a one-year, 24-hour storm, whichever is greater. Wet detention ponds may be used as a stormwater control system to meet the requirements of this sub-sub-subdivision, provided that the stormwater control system fully complies with the requirements of this sub-subdivision. If a wet detention pond is used within one-half mile of Class SA waters, installation of a stormwater best management practice in series with the wet detention pond shall be required to treat the discharge from the wet detention pond. Secondary stormwater best management practices that are used in series with another stormwater best management practice do not require any minimum separation from the

- seasonal high water table. Alternatives as described in 15A NCAC 02H .1008(h) may also be approved if they meet the requirements of this sub-subdivision.
4. Stormwater runoff from the development that is in excess of the design volume must flow overland through a vegetative filter designed in accordance with 15A NCAC 02H .1008 with a minimum length of 50 feet measured from mean high water of Class SA waters.
 5. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division of Water Quality may, on a case by case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.
- c. Stormwater Discharges Prohibited. – All development activities, including both low- and high-density projects, shall prohibit new points of stormwater discharge to Class SA waters or an increase in the volume of stormwater flow through conveyances or increase in capacity of conveyances of existing stormwater conveyance systems that drain to Class SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin must not increase the net amount or rate of stormwater discharge through existing outfalls to Class SA waters. The following shall not be considered a direct point of stormwater discharge:
1. Infiltration of the stormwater runoff from the design storm as described in sub-sub-subdivision 3. of sub-subdivision b. of subdivision (1) of this subsection.
 2. Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or other natural area, that is capable of providing effective infiltration of the runoff from the

- design storm as described in sub-sub-subdivision 3. of sub-subdivision b. of subdivision (1) of this subsection. Notwithstanding the other requirements of this section, the infiltration mandated in this sub-sub-subdivision does not require a minimum separation from the seasonal high-water table.
3. The discharge from a wet detention pond that is treated by a secondary stormwater best management practice, provided that both the wet detention pond and the secondary stormwater best management practice meet the requirements of this sub-subdivision.
 - d. Limitation on the Density of Development. – Development shall be limited to a built upon area of twenty-five percent (25%) or less.
- (2) Development Near Class SA Waters. – Development activities within one-half mile of and draining to those waters classified by the Commission as Class SA waters or within one-half mile of waters classified by the Commission as Class SA waters and draining to unnamed freshwater tributaries to Class SA waters shall meet the requirements of sub-subdivisions a., b., and c. of subdivision (1) of this subsection. The extent of Class SA waters is limited to those waters that are determined to be at least an intermittent stream based on a site stream determination made in accordance with the procedures that are delineated in the Division of Water Quality's "Identification Methods for the Origin of Intermittent and Perennial Streams" prepared pursuant to Session Law 2001-404.
- (3) Other Coastal Development. – Development activities within the Coastal Counties except those areas described in subdivisions (1) and (2) of this subsection shall meet all of the following requirements:
- a. Low-Density Option: Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(1) if the development meets all of the following requirements:
 1. The development has a built upon area of twenty-four percent (24%) or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low density as long as the project meets or exceeds the requirements for low-density development and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.
 2. Stormwater runoff from the development is transported primarily by vegetated conveyances. As used in this sub-sub-subdivision, "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.

3. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. The Division of Water Quality may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.
- b. High-Density Option: Higher density developments shall be permitted pursuant to 15A NCAC 02H .1003(d)(2) if the development meets all of the following requirements:
 1. The development has a built upon area of greater than twenty-four percent (24%).
 2. The development uses control systems that are any combination of infiltration systems, wet detention ponds, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative stormwater management systems designed in accordance with 15A NCAC 02H .1008.
 3. Control systems must be designed to store, control, and treat the stormwater runoff from all surfaces generated by one and one-half inch of rainfall.
 4. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
 5. A 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet

detention ponds, may be located within this vegetative buffer. The Division of Water Quality may, on a case by case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

- (4) **Requirements for Structural Stormwater Controls.** – Structural stormwater controls required under this section shall meet all of the following requirements:
- a. Remove an eighty-five percent (85%) average annual amount of Total Suspended Solids.
 - b. For detention ponds, draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.
 - c. Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.
 - d. Meet the General Engineering Design Criteria set forth in 15A NCAC 02H .1008(c).
 - e. For structural stormwater controls that are required under this section and that require separation from the seasonal high-water table, a minimum separation of two feet is required. Where a separation of two feet from the seasonal highwater table is not practicable, the Division of Water Quality may grant relief from the separation requirement pursuant to the Alternative Design Criteria set out in 15A NCAC 02H .1008(h). No minimum separation from the seasonal highwater table is required for a secondary stormwater best management practice that is used in a series with another stormwater best management practice.
- (5) **Certain Wetlands Excluded From Density Calculation.** – For the purposes of this section, areas defined as Coastal Wetlands under 15A NCAC 07H .0205, as measured landward from the normal high waterline, shall not be included in the overall project area to calculate impervious surface density. Wetlands that are not regulated as coastal wetlands pursuant to 15A NCAC 07H .0205 and that are located landward of the normal high waterline may be included in the overall project area to calculate impervious surface density.

SECTION 2.(c) **Requirements for Limited Residential Development in Coastal Counties.** – For residential development activities within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a built upon area greater than twelve percent (12%), that do not require a stormwater management permit under subsection (b) of this section, and that will add more than 10,000 square feet of built upon area, a one-time, nonrenewable stormwater management permit shall be obtained. The permit shall require recorded deed restrictions or protective covenants to ensure that the plans and specifications approved

in the permit are maintained. Under this permit, stormwater runoff shall be managed using any one or combination of the following practices:

- (1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rain water on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.
- (2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.
- (3) Install any other stormwater best management practice that meets the requirements of 15A NCAC 02H .1008 to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain.

SECTION 2.(d) Exclusions. – The requirements of this section shall not apply to any of the following:

- (1) Activities of the North Carolina Department of Transportation that are regulated in accordance with the provisions of the Department's National Pollutant Discharge Elimination System (NPDES) Stormwater Permit.
- (2) Development activities that are conducted pursuant to and consistent with one of the following authorizations, or any timely renewal thereof, shall be regulated by those provisions and requirements of 15A NCAC 02H .1005 that were effective at the time of the original issuance of the following authorizations:
 - a. State Stormwater Permit issued under the provisions of 15A NCAC 02H .1005.
 - b. Stormwater Certification issued pursuant to 15A NCAC 02H .1000 prior to 1 December 1995.
 - c. A Coastal Area Management Act Major Permit.
 - d. 401 Certification that contains an approved Stormwater Management Plan.
 - e. A building permit pursuant to G.S. 153A-357 or G.S. 160A-417.
 - f. A site-specific development plan as defined by G.S. 153A-344.1(b)(5) and G.S. 160A-385.1(b)(5).
 - g. A phased development plan approved pursuant to G.S. 153A-344.1 or G.S. 160A-385.1 that shows:
 1. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved pursuant to G.S. 153A-330 through G.S. 153A-335 or G.S. 160A-371 through G.S. 160A-376.

2. For any subsequent phase of development, sufficient detail so that implementation of the requirements of this section to that phase of development would require a material change in that phase of the plan.
 - h. A vested right to the development pursuant to common law.
- (3) Redevelopment activities that result in no net increase in built upon area and provide stormwater control equal to the previous development.
- (4) Development activities for which a complete Stormwater Permit Application has been accepted by the Division of Water Quality prior to the effective date of this act, shall be regulated by the provisions and requirements of 15A NCAC 02H .1005 that were effective at the time that this application was accepted as complete by the Division of Water Quality. For purposes of this subsection, a Stormwater Permit Application is deemed accepted as complete by the Division of Water Quality when the application is assigned a permit number in the Division's Basinwide Information Management System.
- (5) Development activities for which only a minor modification of a State Stormwater Permit is required shall be regulated by the provisions and requirements of 15A NCAC 02H .1005 that were effective at the time of the original issuance of the State Stormwater Permit. For purposes of this subsection, a minor modification of a State Stormwater Permit is defined as a modification that does not increase the net area of built upon area within the project site or does not increase the overall size of the stormwater controls that have been previously approved for that development activity.
- (6) Municipalities designated as a National Pollutant Discharge Elimination System (NPDES) Phase 2 municipality located within the 20 Coastal Counties until such time as the NPDES Phase 2 Stormwater Permit expires and is subject to renewal. Upon renewal of the NPDES Phase 2 Stormwater Permits for municipalities located within the 20 Coastal Counties, the Department shall review the permits to determine whether the permits should be amended to include the provisions of this section.

SECTION 2.(e) Exemptions From Vegetative Buffer Requirements. – The following activities are exempt from the vegetative buffer requirements of this section:

- (1) Development in urban waterfronts that meets the requirements of 15A NCAC 07H .0209(g),
- (2) Development in a new urban waterfront area that meets the requirements of Session Law 2004-117,
- (3) Those activities listed in 15A NCAC 07H .0209(d)(10)(A) through 15A NCAC 07H .0209(d)(10)(H),
- (4) Development of upland marinas that have received or are required to secure a Coastal Area Management Act Major Permit.

SECTION 2.(f) Compliance with Other Rules. – In addition to the requirements specified in this section, activities regulated under this section must also comply with any requirements of any other applicable law or rule.

SECTION 3. Rescission of Phase 2 Designations. – All designations of local governments within the 20 Coastal Counties as Phase 2 municipalities by the

Environmental Management Commission under Section 5 of Session Law 2006-246 that occurred after 16 August 2006 are rescinded. The provisions of this section do not preclude any future designations of these areas as Phase 2 municipalities by the Environmental Management Commission under Section 5 of Session Law 2006-246.

SECTION 4. Additional Rule Making. – The Commission may adopt rules to replace the rules that are disapproved or superseded as provided in Section 1 of this act. If the Commission adopts rules pursuant to this section, notwithstanding G.S. 150B-19(4), the rules shall be substantively identical to the provisions of Section 2 of this act. The Commission may reorganize or renumber any of the rules to which this section applies at its discretion. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 5. Construction of Act. –

- (1) Except as specifically provided in Section 4 of this act, 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.
- (2) 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.
- (3) As used in subsection (b) of Section 2 of this act, the phrase "common plan of development" shall be interpreted and implemented in a manner consistent with the memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006, and for these purposes the memorandum shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 6. Application of Memorandum to Prior Session Law. – Subdivision (5) of Section 18 of S.L. 2006-246 reads as rewritten:

- "(5) As used in Section 9 of this act, the phrase 'common plan of development or sale' shall be interpreted and implemented in a manner consistent with the memorandum referenced as 'Guidance Interpreting Phase II Stormwater Requirements' from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006, and for these purposes the memorandum shall be considered a part of this act and as such shall be printed as a part of the Session Laws."

SECTION 7. Provisions of Act Not Codified; Set Out As Note. – 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 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.

SECTION 8. Effective Date. – Subsection (b) of Section 1 of this act and Sections 2 and 3 of this act become effective 1 October 2008. All other sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 10:01 a.m. on the 9th day of August, 2008.

Session Law 2008-212**S.B. 847**

AN ACT TO ADD AGRICULTURAL WORKERS TO THOSE PROTECTED AGAINST RETALIATION IN THE WORKPLACE AND TO DIRECT THE PESTICIDE BOARD TO ADOPT RULES REQUIRING LICENSED PESTICIDE APPLICATORS TO RECORD THE SPECIFIC TIME OF DAY WHEN EACH PESTICIDE APPLICATION IS COMPLETED, AS RECOMMENDED BY THE GOVERNOR'S TASK FORCE ON PREVENTING AGRICULTURAL PESTICIDE EXPOSURE.

The General Assembly of North Carolina enacts:

SECTION 1. 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.
 - g. Article 52 of Chapter 143 of the General Statutes.
- (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 Chapter~~, by Article 2A of Chapter 74 of the General ~~Statutes~~.Statutes, or by Article 52 of Chapter 143 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 2. The Pesticide Board shall adopt rules to implement the recommendations of the Governor's Task Force on Preventing Agricultural Pesticide Exposure, requiring recording of the specific time of day when each pesticide application was completed and extending the retention period for pesticide application records for all pesticides covered under the Worker Protection Standards for Agricultural Pesticides from 30 days to two years.

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

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 9:26 p.m. on the 11th day of August, 2008.

Session Law 2008-213

H.B. 2542

AN ACT TO MAKE CLARIFYING CHANGES TO THE STATE GOVERNMENT ETHICS ACT AND THE LOBBYING LAWS AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 120-103.1 is amended by adding a new subsection to read:

"(a1) Complaints on Its Own Motion. – An investigation initiated by the Committee on its own motion instituted under subsection (a) of this section shall be treated as a complaint for purposes of this section and need not be sworn or verified."

SECTION 1.(b) G.S. 138A-12 is amended by adding a new subsection to read:

"(b1) Complaints on Its Own Motion. – An investigation initiated by the Commission on its own motion or upon written request of any public servant or those responsible for the hiring, appointing, or supervising of a public servant instituted under subsection (b) of this section shall be treated as a complaint for purposes of this section and need not be sworn or verified."

SECTION 2.(a) G.S. 120-104(g) reads as rewritten:

"(g) Except as provided under subsection (f) of this section, a ~~request~~ request made by a legislator to the Committee for an advisory ~~opinion~~ opinion, advisory opinions issued under this section, and ~~recommended~~ advisory opinions received from the State Ethics ~~Commission~~ Commission, and any supporting documents submitted or caused to be submitted to the Committee in connection with requests for advisory opinions or recommended advisory opinions ~~are confidential and not matters of public record~~ are confidential. Neither the identity of the legislator making the request nor the existence of the request may be revealed to any person without the consent of the legislator. A legislator requesting or receiving an advisory opinion may authorize the release to any other person, the State, or any governmental unit of the request, the recommended advisory opinion, the advisory opinion, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advisory opinions, recommended advisory opinions, advisory opinions issued by the Committee, and any supporting documents are not "public records" as defined in G.S. 132-1."

SECTION 2.(b) G.S. 138A-13 reads as rewritten:

"§ 138A-13. ~~Advisory opinions.~~ Request for advice.

(a) At the request of any public servant or legislative employee, any individual who is responsible for the supervision or appointment of ~~a person who is a public servant or legislative employee~~, legal counsel for any public ~~servant~~ servant or legislative employee, any ethics liaison under G.S. 138A-14, or any member of the Commission, the Commission shall render ~~advice~~ ~~advisory opinions~~ on specific questions involving the meaning and application of this Chapter and the public servant's or legislative employee's compliance therewith. ~~The request shall be in writing, electronic or otherwise, and~~ Requests for advice and advice rendered in response to

those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(a1) On its own motion, the Commission may render advisory opinions on specific questions involving the meaning and application of this Chapter.

(a2) A request for a formal advisory opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The Commission shall issue formal advisory opinions having prospective application only. A public servant or legislative employee who relies upon the advice provided to that public servant or legislative employee on a specific matter addressed by ~~Reliance upon a the requested written formal advisory opinion on a specific matter shall immunize the public servant or legislative employee, on that matter,~~ shall be immune from all of the following:

- (1) Investigation by the Commission, except for an inquiry under G.S. 138A-12(b)(3).
- (2) Any adverse action by the employing entity.
- (3) Investigation by the Secretary of State.

(b) At the request of a legislator, the Commission shall render ~~recommended advisory opinions~~ advice on specific questions involving the meaning and application of this Chapter and Part 1 of Article 14 of Chapter 120 of the General Statutes, and the legislator's compliance therewith. ~~The request shall be in writing, electronic or otherwise, and~~ Requests for advice and advice rendered in response to those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(b1) A request by a legislator for a recommended formal advisory opinion shall be in writing, electronic or otherwise. The Commission shall issue recommended formal advisory opinions having prospective application only. Until action is taken by the Committee under G.S. 120-104, a legislator who relies upon the advice provided to that legislator on a specific matter addressed by the requested ~~reliance upon a requested written recommended formal advisory opinion on a specific matter shall immunize the legislator, on that matter,~~ shall be immune from all of the following:

- (1) Investigation by the Committee or Commission, except for an inquiry under G.S. 138A-12(b)(3).
- (2) Any adverse action by the house of which the legislator is a member.
- (3) Investigation by the Secretary of State.

Any recommended formal advisory opinion issued to a legislator under this subsection shall immediately be delivered to the chairs of the Committee, together with a copy of the request. Except for the Lieutenant Governor, the immunity granted under this subsection shall not apply after the time the Committee modifies or overturns the advisory opinion of the Commission in accordance with G.S. 120-104.

(c) Staff to the Commission may issue advice, but not formal or recommended formal advisory opinions, under procedures adopted by the Commission.

(d) The Commission shall publish its formal advisory opinions ~~at least once a year within 30 days of issuance.~~ These formal advisory opinions shall be edited for publication purposes as necessary to protect the identities of the individuals requesting formal advisory opinions. When the Commission issues a recommended formal advisory opinion to a legislator under ~~subsection (b)~~ subsection (b1) of this section, the Commission shall publish only the edited formal advisory opinion of the Committee upon its submission to the Commission within 30 days of receipt of the edited opinion from the Committee.

(e) Except as provided under ~~subsection (d)~~ subsections (b2), (d) and (e1) of this section, ~~requests~~ a request for advice, any advice provided by Commission staff, any

formal or recommended formal advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or Commission staff in connection with a request for advice this section, are confidential and not public records. are confidential. The identity of the individual making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual who requests advice or receives advice, including a formal or recommended formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(e1) Staff to the Commission may share all information and documents related to requests for advice, made by legislators made under subsection (b) of this section with staff to the Committee, and staff to the Committee shall treat that as Committee. The information and documents in the possession of staff to the Committee are confidential and are not a public record-records.

(f) This section shall not apply to judicial officers-officers only for the purpose of advice related to Article 3 of this Chapter.

(g) Requests for advisory opinions-advice may be withdrawn by the requestor at any time prior to the issuance of an advisory opinionthe advice."

SECTION 2.(c) G.S. 120C-102 reads as rewritten:

"§ 120C-102. Advisory opinions.Request for advice.

(a) At the request of any person-person, State agency, or governmental unit affected by this Chapter, the Commission shall render advice-advisory opinions on specific questions involving the meaning and application of this Chapter and that person's-person's, State agency's, or any governmental unit's compliance therewith. The request shall be in writing and Requests for advice and advice rendered in response to those requests shall relate to real or reasonably anticipated fact settings or circumstances.

(a1) A request for a formal opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The Commission shall issue formal advisory opinions having prospective application only. An individual, State agency, or governmental unit who relies upon the advice provided to that individual, State agency, or governmental unit on a specific matter addressed by Good faith reliance upon a requested written formal advisory opinion on a specific matter shall immunize the designated individual, lobbyist, lobbyist's principal, or other person requesting that written advisory opinion shall be immune from all of the following:

- (1) Investigation by the Commission.
- (2) Any adverse action by the employing entity.
- (3) Investigation by the Secretary of State.

(b) Staff to the Commission may issue advice, but not formal advisory opinions opinions, under procedures adopted by the Commission.

(c) The Commission shall publish its formal advisory opinions at least once a year, within 30 days of issuance, edited as necessary to protect the identities of the individuals requesting opinions.

(d) Except as provided under subsection-subsections (c) and (d1) of this section, requests for a request for advice, any advice provided by Commission staff, any formal

advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or the Commission staff in connection with a request for advice are confidential. ~~advisory opinions and advisory opinions issued pursuant to this section are confidential and not matters of public record.~~ The identity of the individual, State agency, or governmental unit making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual, State agency, or governmental unit who requests advice or receives advice, including a formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(d1) Staff to the Commission may share all information and documents related to requests ~~made under subsection (a) and (a1) of this section with staff of the Office of the Secretary of State, and staff of the Office of the Secretary of State shall treat that State.~~ The information ~~as~~ and documents in the possession of the staff of the Office of the Secretary of State shall remain confidential and not a ~~public record.~~ ~~records.~~ The Commission shall forward an unedited copy of each formal advisory opinion under this section to the Secretary of State at the time the formal advisory opinion is issued to the requestor, and the Secretary of State shall treat that unedited advisory opinion as confidential and not a public record.

(e) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of ~~an~~ a formal advisory opinion."

SECTION 2.(d) This section is effective January 1, 2007, and applies to requests made on and after that date.

SECTION 3. G.S. 120-103.1(i)(3)b. reads as rewritten:

"b. The hearing shall be ~~legislator~~ open to the public, except for matters that could otherwise be considered in closed session under G.S. 143-318.11, matters involving minors, or matters involving a personnel record. In any event, the deliberations by the Commission on a complaint may be held in closed session."

SECTION 4. G.S. 120C-100(a)(8) reads as rewritten:

"(8) Liaison personnel. – Any State employee, counsel employed under G.S. 147-17, or officer whose principal duties, in practice or as set forth in that ~~person's~~ individual's job description, include lobbying ~~designated individuals~~ legislators or legislative employees."

SECTION 5. G.S. 120C-100(a)(9) reads as rewritten:

"(9) Lobbying. – Any of the following:

- a. Influencing or attempting to influence legislative or executive action, or both, through direct communication or activities with a designated individual or that ~~person's~~ designated individual's immediate family.
- b. Developing goodwill through communications or activities, including the building of relationships, with a designated individual or that ~~person's~~ designated individual's immediate family with the intention of influencing current or future legislative or executive action, or both.

The term "lobbying" does not include communications or activities as part of a business, civic, religious, fraternal, personal, or commercial relationship which is not connected to legislative or executive action, or both."

SECTION 6. G.S. 120C-100(a)(10)b. reads as rewritten:

"b. Represents another ~~person, person or governmental unit~~, but is not directly employed by that ~~person, person or governmental unit~~, and receives ~~compensation for the purpose of lobbying, payment for services~~. For the purposes of this sub-subdivision, the term ~~compensation~~ 'payment for services' shall not include reimbursement of actual travel and subsistence."

SECTION 7. G.S. 120C-100(a)(11) reads as rewritten:

"(11) Lobbyist principal and principal. – The person or governmental unit on whose behalf the lobbyist lobbies. In the case where a lobbyist is compensated by a law firm, consulting firm, or other entity retained by a person or governmental unit for lobbying, the principal is the person or governmental unit whose interests the lobbyist represents in lobbying. In the case of a lobbyist employed or retained by an association or other organization, the lobbyist's principal is the association or other organization, not the individual members of the association or other organization.

The term "lobbyist's principal" shall not include those designating registered liaison personnel under Article 5 of this Chapter."

SECTION 8. G.S. 120C-100(a) is amended by adding a new subdivision to

read:

"(11k) Payment for services. – Any money, thing of value, or economic benefit paid to a lobbyist for the purpose of lobbying other than reimbursement of actual travel, administrative expenses, or subsistence."

SECTION 9. G.S. 120C-101(c) and (d) read as rewritten:

"(c) In adopting rules under this Chapter, the Commission is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the Commission shall ~~maintain a mailing list of interested persons as provided in comply with~~ G.S. 150B-21.2(d). At least 30 business days prior to adopting a rule, the Commission shall:

- (1) Publish the proposed rules in the North Carolina Register.
- (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet to be posted within five business days.
- (3) Notify ~~persons~~ those on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
- (4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted under this subsection becomes effective the first day of the month following the month the final rule is submitted to the Codifier of Rules for entry into the North Carolina Administrative Code.

(d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the Commission to a rule adopted by the Secretary of State pursuant to this Chapter shall be deemed written objections from 10 or more ~~persons~~ persons under that statute. Notwithstanding G.S. 150B-21.3(b2), a rule adopted by the Secretary of State pursuant to this Chapter objected to by the Commission under this subsection shall not become effective until an act of the General Assembly approving the rule has become law. If the General Assembly does not approve a rule under this subsection by the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Rules Review Commission approves the rule, the permanent rule shall not become effective and any temporary rule associated with the permanent rule expires. If the General Assembly fails to approve a rule by the day of adjournment, the Secretary of State may initiate rulemaking for a new permanent rule, including by the adoption of a temporary rule."

SECTION 11. G.S. 120C-103(a) reads as rewritten:

"(a) The Commission shall develop and implement a lobbying education and awareness program designed to instill in all designated individuals, lobbyists, and lobbyists' principals a keen and continuing awareness of their obligations and sensitivity to situations that might result in real or potential violation of this Chapter or other related laws. The Commission shall make basic lobbying education and awareness presentations to all designated individuals upon their election, appointment, or hiring and shall offer periodic refresher presentations as the Commission deems appropriate. Every designated individual shall participate in a lobbying presentation approved by the Commission within six months of the ~~person's~~ designated individual's election, appointment, or hiring and shall attend refresher lobbying education presentations at least every two years thereafter in a manner the Commission deems appropriate. The Commission shall also make lobbying education and awareness programs available to lobbyists and lobbyists' principals. Upon request, the Commission shall assist each agency in developing in-house education programs and procedures necessary or desirable to meet the agency's particular needs for lobbying education."

SECTION 12. G.S. 120C-104 reads as rewritten:

"§ 120C-104. Chapter applies to candidates for certain offices.

For purposes of this Chapter, the term "legislator" as defined in G.S. 120C-100(7) and the term "public servant" as defined in G.S. 138A-3(30)a. shall include ~~a person~~ an individual having filed a notice of candidacy for such office under G.S. 163-106 or Article 11 of Chapter 163 of the General Statutes or nominated under G.S. 163-114 or G.S. 163-98."

SECTION 13. G.S. 120C-200(a) reads as rewritten:

"(a) A lobbyist shall file a separate registration statement for each principal the lobbyist represents with the Secretary of State before engaging in any lobbying. It shall be unlawful for ~~a person~~ an individual to lobby without registering within one business day of engaging in any lobbying as defined in G.S. 120C-100(9) unless exempted by this Chapter."

SECTION 15. G.S. 120C-220(a) reads as rewritten:

"(a) The Secretary of State shall make available as soon as practicable the registrations of the lobbyists and liaison personnel in an electronic, searchable format."

SECTION 16. G.S. 120C-300 reads as rewritten:

"§ 120C-300. Contingency fees prohibited.

(a) No ~~person~~individual shall act as a lobbyist for ~~compensation~~payment for services that is dependent upon the result or outcome of any legislative or executive action.

(b) This section shall not apply to a ~~person~~an individual doing business with the State who is engaged in sales with respect to that business with the State whose regular ~~compensation~~remuneration agreement includes commissions based on those sales. For purposes of this subsection, the term 'regular remuneration' means any money, thing of value, or economic benefit conferred on or received by the individual in return for services rendered or to be rendered by that individual or another.

(c) Any ~~compensation~~paidpayment for services to a lobbyist in violation of this section is subject to forfeiture and shall be paid into the Civil Penalty and Forfeiture Fund."

SECTION 17.(a) G.S. 120C-303(a)(2) reads as rewritten:

"(2) Knowingly give a gift to ~~a third party~~ with the intent that a designated individual be the ultimate recipient."

SECTION 17.(b) This section becomes effective December 1, 2008.

SECTION 18. G.S. 120C-303(d) reads as rewritten:

"(d) Gifts made to a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that ~~person's~~legislator's or legislative employee's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c)."

SECTION 19. G.S. 120C-303(e) reads as rewritten:

"(e) Gifts made to a nonpartisan state, regional, national, or international organization of which a public servant's agency is a member or a public servant is a member or participant of by virtue of that ~~person's~~public servant's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c)."

SECTION 20. G.S. 120C-304(c) reads as rewritten:

"(c) No ~~person serving as a~~ public servant or former public servant as defined in G.S. 138A-3(30)c. may register as a lobbyist under this Chapter within six months after separation from ~~employment~~employment as a public servant."

SECTION 21. G.S. 120C-304(e) reads as rewritten:

"(e) A lobbyist shall not be eligible for appointment by a State official to, or service on, any body created under the laws of this State that has regulatory authority over the activities of a ~~person~~or governmental unit that the lobbyist currently represents or has represented within 120 days after the expiration of the lobbyist's registration representing that ~~person~~person or governmental unit. Nothing herein shall be construed to prohibit appointment by any unit of local government."

SECTION 22. G.S. 120C-305 reads as rewritten:

"§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.

No lobbyist or another acting on the lobbyist's behalf shall permit a designated individual, or that ~~person's~~designated individual's immediate family member, to use the cash or credit of the lobbyist for the purpose of lobbying unless the lobbyist is in attendance at the time of the reportable expenditure."

SECTION 23. G.S. 120C-400 reads as rewritten:

"§ 120C-400. Reporting of reportable expenditures.

(a) For purposes of this Chapter, all reportable expenditures made for the purpose of lobbying shall be reported, including the following:

- (1) Reportable expenditures benefiting or made on behalf of a designated ~~individual, or those persons' immediate family members,~~individual in the regular course of that designated individual's employment.
- (1a) Reportable expenditures benefiting or made on behalf of a designated individual's immediate family member in the regular course of that immediate family member's employment.
- (2) Contractual arrangements or direct business relationships between a lobbyist or lobbyist's principal and a designated individual, or that ~~person's designated individual's~~ immediate family member, in effect during the reporting period or the previous 12 months.
- (3) Reportable expenditures reimbursed to a lobbyist in the ordinary course of business by the lobbyist's principal or other employer.

(b) This section shall not apply to any reportable expenditure of cash, a cash equivalent, or a fixed asset made directly to a State agency ~~and that agency~~ maintains an accounting of the reportable expenditure that is a public record."

SECTION 24. G.S. 120C-401(b) reads as rewritten:

"(b) Each For reportable expenditures, each report shall set forth all of the following:

- (1) ~~the~~The fair market value-value or face value if shown,shown.
- (2) ~~date,~~The date of the reportable expenditure.
- (3) ~~a~~A description of the reportable expenditure,expenditure.
- (4) ~~name~~The name and address of the payee,payee or beneficiary, andbeneficiary.
- (5) ~~name~~The name of any designated individual,individual or that person's designated individual's immediate family member-member connected with the reportable expenditure.

(b1) For purposes of subdivision (b)(5) of this section, Whenwhen more than 15 designated individuals benefit from or request a reportable expenditure, no names of individuals need be reported provided that the report identifies the approximate number of designated individuals benefiting or requesting and the basis for their selection, including the name of the legislative body, committee, caucus, or other group whose membership list is a matter of public record in accordance with G.S. 132-1 or including a description of the group that clearly distinguishes its purpose or composition from the general membership of the General Assembly. The approximate number of immediate family members of designated individuals who benefited from the reportable expenditure shall be listed separately."

SECTION 25. G.S. 120C-401 is amended by adding a new subsection to read:

"(b2) For purposes of subdivision (b)(5) of this section, when the reportable expenditure is a gift given with the intent that a designated individual be the ultimate recipient and the lobbyist or lobbyist principal does not know the name or names of the designated individuals, the lobbyist or lobbyist principal shall report a description of the designated individuals and those designated individuals' immediate family members connected with the reportable expenditure that clearly distinguishes its purpose or composition, and an approximate number, if known."

SECTION 27. G.S. 120C-402(b)(3) reads as rewritten:

"(3) Reportable expenditures reimbursed by the lobbyist's principal, or another person or governmental unit on the lobbyist's principal's behalf."

SECTION 29.(a) G.S. 120C-403(b) reads as rewritten:

"(b) The report shall be filed whether or not reportable expenditures are made, shall be due 10 business days after the end of the reporting period, and shall include all of the following for the reporting period:

- (1) All reportable expenditures made for the purpose of lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) ~~Compensation~~ With respect to each lobbyist registered under G.S. 120C-206, payment for services paid to all lobbyists during the quarter. If a lobbyist is a full-time employee of the principal, or is compensated ~~paid~~ by means of an annual fee or retainer, the principal shall estimate and report the portion of the salary, fee, or retainer that ~~compensates~~ is reasonably allocated for the purpose of lobbying. A lobbyist principal may rely upon a statement by the lobbyist estimating the portion of the salary, fee, or retainer that is reasonably allocated for the purpose of lobbying.
- (4) With respect to each lobbyist registered under G.S. 120C-206, Reportable ~~reportable~~ expenditures reimbursed or paid to lobbyists for lobbying that are not reported on the lobbyist's report, with an itemized description of those reportable expenditures.
- (5) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than two hundred dollars (\$200.00)."

SECTION 29.(b) This section is effective January 1, 2007, and applies to reports filed on and after that date.

SECTION 30. G.S. 120C-500(b) reads as rewritten:

"(b) No State ~~funds~~ agency or constitutional officer of the State may ~~be used to~~ contract with ~~persons~~ individuals who are not employed by the State to lobby legislators and legislative employees. This subsection shall not apply to counsel employed by any agency, board, department, or division authorized to employ counsel under G.S. 147-17."

SECTION 31. G.S. 120C-500 is amended by adding a new subsection to read:

"(d) The Chief Justice of the Supreme Court shall designate at least one, but no more than four, liaison personnel to lobby for legislative action for all offices, conferences, commissions, and other agencies established under Chapter 7A of the General Statutes. This subsection shall not apply to any office created under Article 60 of Chapter 7A of the General Statutes, so long as that office complies with subsection (a) of this section."

SECTION 32. G.S. 120C-500(c) reads as rewritten:

"(c) No more than two ~~persons~~ individuals may be designated as liaison personnel for each agency and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch."

SECTION 33. G.S. 120C-501(e) reads as rewritten:

"(e) ~~The Board of Governors of the University of North Carolina or any of~~ and its constituent institutions, or designated the liaison personnel designated by that board or the constituent institutions, of those persons, shall not give, for the purpose of lobbying, athletic tickets to any designated individual, except for those who are described in G.S. 138A-3(30)j. or those who are students and receive tickets on the same basis as other students."

SECTION 34. G.S. 120C-600(c) reads as rewritten:

"(c) ~~Complaints of violations of Articles 2, 4, and 8 of this Chapter and Chapter,~~ all other records accumulated in conjunction with the investigation of these complaints complaints, and any records accumulated in the performance of a systematic review shall be considered confidential records and may be released only by order of a court of competent jurisdiction. records of criminal investigations under G.S. 132-1.4. Any information obtained by the Secretary of State from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or systematic review shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization."

SECTION 35. G.S. 120C-601(c) reads as rewritten:

"(c) ~~Complaints of violations of this Chapter and all other records accumulated in conjunction with the investigation of these complaints shall be considered records of criminal investigations under G.S. 132-1,~~ confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the Commission from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization."

SECTION 36. G.S. 120C-603 reads as rewritten:

"§ **120C-603. Enforcement by district attorney and Attorney General.**

(a) The Commission or the Secretary of State, as appropriate, may investigate complaints of violations of this Chapter and shall report apparent violations of this Chapter to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Chapter.

(b) Complaints of violations of this Chapter involving the Commission or any member employee of the Commission shall be referred to the Attorney General for investigation. The Attorney General shall, upon receipt of a complaint, make an appropriate investigation thereof, and the Attorney General shall forward a copy of the investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Chapter."

SECTION 37. G.S. 120C-800(c) reads as rewritten:

"(c) ~~If a designated individual accepts a scholarship related to that person's~~ designated individual's public service or position valued over two hundred dollars (\$200.00) from a person, or group of persons, acting together, exempted or not covered by this Chapter, the person, or group of persons, granting the scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person, or group of persons, granting the scholarship, the name of the designated individual accepting the scholarship, and the estimated fair market value."

SECTION 38.(a) G.S. 120C-800(e) reads as rewritten:

- "(e) This section shall not apply to any of the following:
- (1) Lawful campaign contributions properly received and reported as required under Article 22A of Chapter 163 of the General Statutes.
 - (2) Any ~~gift-reportable expenditure from an~~ a designated individual's extended family member to a designated individual.
 - (3) ~~Gifts-Reportable expenditures~~ associated primarily with the designated individual's employment or that person's designated individual's immediate family member's employment.
 - (4) ~~Gifts, Reportable expenditures,~~ other than food, beverages, travel, and lodging, which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.
 - (5) A thing of value that is paid for by the State.
 - (6) A scholarship paid for by a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization."

SECTION 38.(b) This section becomes effective on or after January 1, 2007, and applies to scholarships received on or after that date.

SECTION 39. G.S. 120C-800(g) reads as rewritten:

"(g) For purposes of this section, the term "scholarship" shall mean a grant-in-aid to attend a conference, meeting, or other similar event. For purposes of this section only, the term "person" shall include all persons as defined in G.S. 138A-3(27) and all governmental units as defined in G.S. 138A-3(15d)."

SECTION 40. G.S. 138A-3(3) reads as rewritten:

- "(3) Business with which associated. – A business in which the covered person or filing person or any member of the person's that covered person's or filing person's immediate family does any of the following:
- a. Is an employee.
 - b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.
 - c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.
 - d. Is a lobbyist registered under Chapter 120C of the General Statutes.

For purposes of this subdivision, the term "business" shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

- a.1. The covered person-person, filing person, or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.

b.2. The fund is publicly traded, or the fund's assets are widely diversified."

SECTION 41. G.S. 138A-3(6) reads as rewritten:

"(6) Compensation. – Any money, thing of value, or economic benefit conferred on or received by any covered person or filing person in return for services rendered or to be rendered by that covered person or filing person or another. This term does not include campaign contributions properly received and, reported as required by Article 22A of Chapter 163 of the General Statutes."

SECTION 42. G.S. 138A-3(13) reads as rewritten:

"(13) Extended family. – Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and the spouse of any of these ~~persons~~individuals."

SECTION 43. G.S. 138A-3(14) reads as rewritten:

"(14) Filing person. – ~~A person~~An individual required to file a statement of economic interest under G.S. 138A-22."

SECTION 44. G.S. 138A-3 is amended by adding a new subdivision to

read:

"(15d) Governmental unit. – A political subdivision of the State, and any other entity or organization created by a political subdivision of the State."

SECTION 45. G.S. 138A-3(18) reads as rewritten:

"(18) Judicial employee. – The director and assistant director of the Administrative Office of the Courts and any other ~~person~~individual, designated by the Chief Justice, employed in the Judicial Department whose annual compensation from the State is sixty thousand dollars (\$60,000) or more."

SECTION 46. G.S. 138A-3(19) reads as rewritten:

"(19) Judicial officer. – Justice or judge of the General Court of Justice, district attorney, clerk of court, or any ~~person~~individual elected or appointed to any of these positions prior to taking office."

SECTION 47. G.S. 138A-3(22) reads as rewritten:

"(22) Legislator. – A member or presiding officer of the General Assembly, or a ~~person~~an individual elected or appointed a member or presiding officer of the General Assembly before taking office."

SECTION 48. G.S. 138A-3(24) reads as rewritten:

"(24) Nonprofit corporation or organization with which associated. – Any not for profit corporation, organization, or association, 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 ~~covered person~~covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered as ~~under~~ Chapter 120C of the General Statutes, or independent contractor. Nonprofit corporation or organization with which associated shall not include any board, entity, or other organization created by this State or by any political subdivision of this State."

SECTION 49. G.S. 138A-3(29) is repealed.

SECTION 50. G.S. 138A-3(30)a. reads as rewritten:

"a. Constitutional officers of the State and ~~persons~~individuals elected or appointed as constitutional officers of the State prior to taking office."

SECTION 51. G.S. 138A-3(30)d. reads as rewritten:

"d. The chief deputy and chief administrative assistant of each ~~person~~individual designated under sub-subdivision a. or c. of this subdivision."

SECTION 52. G.S. 138A-3(30)e. reads as rewritten:

"e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2), to ~~persons~~individuals designated under sub-subdivision a., c., or d. of this subdivision."

SECTION 53. G.S. 138A-3(30)m. reads as rewritten:

"m. ~~Persons~~Individuals under contract with the State working in or against a position included under this subdivision."

SECTION 54. G.S. 138A-3 is amended by adding a new subdivision to

read:

"(30k) State agency. – An agency in the executive branch of the government of this State, including the Governor's Office, a board, a department, a division, and any other unit of government in the executive branch."

SECTION 55. G.S. 138A-10(a)(3)b. reads as rewritten:

"b. The names of ~~persons~~individuals subject to this Chapter as covered persons and legislative employees under G.S. 138A-11."

SECTION 56. G.S. 138A-11 reads as rewritten:

"§ 138A-11. Identify and publish names of covered persons and legislative employees.

The Commission shall identify and publish at least quarterly a listing of the names and positions of all ~~persons~~individuals subject to this Chapter as covered persons or legislative employees. The Commission shall also identify and publish at least annually a listing of all boards to which this Chapter applies. This listing may be published electronically on a public Internet Web site maintained by the Commission."

SECTION 57. G.S. 138A-12 reads as rewritten:

"§ 138A-12. Inquiries by the Commission.

...

(a1) Notice of Allegation. – Upon receipt by the Commission of an written allegation of unethical conduct by a covered person or legislative employee, or the initiation by the Commission of an inquiry into unethical conduct under subsection (b) of this section, the Commission shall immediately notify the covered person or legislative employee subject to the allegation or inquiry in writing.

(b) Institution of Proceedings. – On its own motion, in response to a signed and sworn complaint of any individual filed with the Commission, or upon the written request of any public servant or ~~any person~~those responsible for the hiring, appointing, or supervising of a public servant, the Commission shall conduct an inquiry into any of the following:

- (1) The application or alleged violation of this Chapter.
- (2) For legislators, the application of alleged violations of Part 1 of Article 14 of Chapter 120 of the General Statutes.

- (3) An alleged violation of the criminal law by a covered person in the performance of that individual's official duties.
- (4) An alleged violation of G.S. 126-14.

Allegations of violations of the Code of Judicial Conduct shall be referred to the Judicial Standards Commission without investigation.

(c) Complaint. –

- (1) A sworn complaint filed under this Chapter shall state the name, address, and telephone number of the ~~person~~individual filing the complaint, the name and job title or appointive position of the covered person or legislative employee against whom the complaint is filed, and a concise statement of the nature of the complaint and specific facts indicating that a violation of this Chapter or Chapter 120 of the General Statutes has occurred, the date the alleged violation occurred, and either (i) that the contents of the complaint are within the knowledge of the individual verifying the complaint, or (ii) the basis upon which the individual verifying the complaint believes the allegations to be true.
- (2) Except as provided in subsection (d) of this section, a complaint filed under this Chapter must be filed within two years of the date the complainant knew or should have known of the conduct upon which the complaint is based.
- (3) The Commission may decline to accept, refer, or conduct an inquiry into any complaint that does not meet all of the requirements set forth in subdivision (1) of this subsection, or the Commission may, in its sole discretion, request additional information to be provided by the complainant within a specified period of time of no less than seven business days.
- (4) In addition to subdivision (3) of this subsection, the Commission may decline to accept, refer, or conduct an inquiry into a complaint if it determines that any of the following apply:
 - a. The complaint is frivolous or brought in bad faith.
 - b. The ~~individuals~~covered person or legislative employee and conduct complained of have already been the subject of a prior complaint.
 - c. The conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other federal, State, or local agencies or authorities, including law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed under this section, the Commission may stay its complaint inquiry pending final resolution of the other investigation.
- (5) The Commission shall send a copy of the complaint to the covered person or legislative employee who is the subject of the complaint and the employing entity, within 30 days of the filing.

...

(f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission determines at the end of its preliminary inquiry that (i) the individual who is the subject of the complaint is not a covered person or legislative employee subject to the

Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does not allege facts sufficient to constitute a violation within the jurisdiction of the Commission under subsection (b) ~~if of~~ this section, the Commission shall dismiss the complaint.

...

(l) Notice of Dismissal. – Upon the dismissal of a complaint under this section, the Commission shall provide written notice of the dismissal to the individual who filed the complaint and the covered person or legislative employee against whom the complaint was filed. The Commission shall forward copies of complaints and notices of dismissal of complaints against legislators to the Committee, against legislative employees to the employing entity for legislative employees, and against judicial officers to the Judicial Standards Commission for complaints against justices and judges, and the senior resident superior court judge of the district or county for complaints against district attorneys, or the chief district court judge of the district or county for complaints against clerks of court.

...

(q) Continuing Jurisdiction. – The Commission shall have continuing jurisdiction to investigate possible criminal violations of this Chapter for a period of one year following the date ~~a person, an individual,~~ who was formerly a public servant or legislative employee, ceases to be a public servant or legislative employee for any investigation that commenced prior to the date the public servant or legislative employee ceases to be a public servant or legislative employee.

(r) Subpoena Authority. – The Commission may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of alleged violations of this Chapter. The court shall authorize subpoenas under this subsection when the court determines the subpoenas are necessary for the enforcement of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through contempt powers. Venue shall be with the Superior Court of Wake County for any person or governmental unit covered by this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

...."

SECTION 59. G.S. 138A-14(b) reads as rewritten:

"(b) The Commission shall make basic ethics education and awareness presentations to all public servants and their immediate staffs, upon their election, appointment, or employment, and shall offer periodic refresher presentations as the Commission deems appropriate. Every public servant and the immediate staff of every public servant shall participate in an ethics presentation approved by the Commission within six months of the ~~person's public servant's~~ election, reelection, appointment, or employment, and shall attend refresher ethics education presentations at least every two years thereafter in a manner as the Commission deems appropriate."

SECTION 60. G.S. 138A-14(c) reads as rewritten:

"(c) The Commission, jointly with the Committee, shall make basic ethics education and awareness presentations to all legislators and legislative employees upon their election, reelection, appointment, or employment and shall offer periodic refresher presentations as the Commission and the Committee deem appropriate. Every legislator and legislative employee shall participate in an ethics presentation approved by the Commission and Committee within three months of the ~~person's legislator or legislative employee's~~ election, reelection, appointment, or employment, and every legislative

employee shall attend refresher ethics education presentations at least every two years thereafter, in a manner as the Commission and Committee deem appropriate."

SECTION 61. G.S. 138A-15(b) reads as rewritten:

"(b) The head of each State agency, including the chair of each board subject to this Chapter, shall maintain familiarity with and stay knowledgeable of the reports, opinions, newsletters, and other communications from the Commission regarding ethics in general and the interpretation and enforcement of this Chapter. The head of each State agency and the chair of each board shall also maintain familiarity with and stay knowledgeable of the Commission's reports, evaluations, opinions, or findings regarding individual public servants in that ~~person's~~individual's agency or on that ~~person's~~individual's board, or under that ~~person's~~individual's supervision or control, including all reports, evaluations, opinions, or findings pertaining to actual or potential conflicts of interest."

SECTION 62. G.S. 138A-15(d) reads as rewritten:

"(d) The head of each State agency, including the chair of each board subject to this Chapter, shall periodically remind public servants under that ~~person's~~individual's authority of the public servant's duties to the public under the ethical standards and rules of conduct in this Chapter, including the duty of each public servant to continually monitor, evaluate, and manage the public servant's personal, financial, and professional affairs to ensure the absence of conflicts of interest."

SECTION 63. G.S. 138A-21 reads as rewritten:

"§ 138A-21. Purpose.

The purpose of disclosure of the financial and personal interests by covered persons is to assist covered persons and those ~~persons~~ who appoint, elect, hire, supervise, or advise them identify and avoid conflicts of interest and potential conflicts of interest between the covered person's private interests and the covered person's public duties. It is critical to this process that current and prospective covered persons examine, evaluate, and disclose those personal and financial interests that could be or cause a conflict of interest or potential conflict of interest between the covered person's private interests and the covered person's public duties. Covered persons must take an active, thorough, and conscientious role in the disclosure and review process, including having a complete knowledge of how the covered person's public position or duties might impact the covered person's private interests. Covered persons have an affirmative duty to provide any and all information that a reasonable person would conclude is necessary to carry out the purposes of this Chapter and to fully disclose any conflict of interest or potential conflict of interest between the covered person's public and private interests, but the disclosure, review, and evaluation process is not intended to result in the disclosure of unnecessary or irrelevant personal information."

SECTION 64. G.S. 138A-22 reads as rewritten:

"§ 138A-22. Statement of economic interest; filing required.

(a) Every covered person subject to this Chapter who is elected, appointed, or employed, including one appointed to fill a vacancy in elective office, except for public servants included under G.S. 138A-3(30)b., e., f., or g. whose annual compensation from the State is less than sixty thousand dollars (\$60,000), shall file a statement of economic interest with the Commission prior to the covered person's initial appointment, election, or employment and no later than April 15 of every year thereafter, except as otherwise filed under subsections (c1) and (d) of this section. A prospective covered person required to file a statement under this Chapter shall not be appointed, employed, or receive a certificate of election, prior to submission by the

Commission of the Commission's evaluation of the statement in accordance with this Article. The requirement for an annual filing under this subsection also shall apply to covered persons whose terms have expired but who continue to serve until the covered person's replacement is appointed. Once a statement of economic interest is properly completed and filed under this Article, the statement of economic interest does not need to be supplemented or refiled prior to the next due date set forth in this subsection.

(b) Notwithstanding subsection (a) of this section, ~~persons~~ individuals hired by, and appointees of, constitutional officers of the State may file a statement of economic interest within 30 days after their appointments or employment when the appointment or employment is made during the first 60 days of the constitutional officer's initial term in that constitutional office.

...

(d) A candidate for an office subject to this Article shall file the statement of economic interest at the same place and in the same manner as the notice of candidacy for that office is required to be filed under G.S. 163-106 or G.S. 163-323 within 10 days of the filing deadline for the office the candidate seeks. ~~A person~~ An individual who is nominated under G.S. 163-114 after the primary and before the general election, and a ~~person~~ an individual who qualifies under G.S. 163-122 as an unaffiliated candidate in a general election, shall file a statement of economic interest with the county board of elections of each county in the senatorial or representative district. ~~A person~~ An individual nominated under G.S. 163-114 shall file the statement within three days following the ~~person's~~ individual's nomination, or not later than the day preceding the general election, whichever occurs first. ~~A person~~ An individual seeking to qualify as an unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest with the petition filed under that section. ~~A person~~ An individual seeking to have write-in votes counted for ~~the person~~ that individual in a general election shall file a statement of economic interest at the same time the candidate files a declaration of intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of economic interest at the same time that the president of the convention certifies the names of its candidates to the State Board of Elections under G.S. 163-98.

...."

SECTION 65. G.S. 138A-23(b) reads as rewritten:

"(b) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for ~~persons~~ individuals elected by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the election and made available to all members of the General Assembly. The statements of economic interest filed by public servants elected to positions by the General Assembly, and written evaluations by the Commission of those statements, are not public records until the prospective public servant is sworn into office."

SECTION 66. G.S. 138A-23(c) reads as rewritten:

"(c) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for ~~persons~~ individuals confirmed for appointment as a public servant by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the appointment. The statements of economic interest filed by prospective public servants for confirmation for appointment by the General Assembly, and written evaluations by the Commission of those statements, are public records at the time of the announcement of the appointment."

SECTION 67. G.S. 138A-24(a)(1) reads as rewritten:

"(1) Except as otherwise provided in this subdivision, the name, current mailing address, occupation, employer, and business of the filing person. Any ~~person~~ individual holding or seeking elected office for which residence is a qualification for office shall include a home address. A judicial officer may use a current mailing address instead of the home address on the form required in this subsection. The judicial officer may also use the initials instead of the name of any unemancipated child of the judicial officer who also resides in the household of the judicial officer. If the judicial officer provides the initials of an unemancipated child, the judicial officer shall concurrently provide the name of the unemancipated child to the Commission. The name of an unemancipated child provided by the judicial officer to the Commission shall not be a public record under Chapter 132 of the General Statutes and is privileged and confidential."

SECTION 68. G.S. 138A-24(a)(2)h. reads as rewritten:

"h. A list of all nonpublicly owned businesses of which the filing person and the filing person's immediate family is an officer, employee, director, partner, owner, or member or manager of a limited liability company."

SECTION 69. G.S. 138A-24(a)(6) reads as rewritten:

"(6) An indication of whether the filing person, the filing person's employer, a member of the filing person's immediate family, or the immediate family member's employer is licensed or regulated by, or has a business relationship with, the board or employing entity with which the filing person is or will be associated. This subdivision does not apply to a ~~legislator or a judicial officer~~ legislator, a judicial officer, or that legislator's or judicial officer's immediate family."

SECTION 70. G.S. 138A-24(a)(7) reads as rewritten:

"(7) A list of societies, organizations, or advocacy groups, pertaining to subject matter areas over which the public servant's agency or board may have jurisdiction, in which the public servant or a member of the public servant's immediate family is a director, officer, or governing board member. This subdivision does not apply to a legislator, a judicial officer, or that ~~person's~~ legislator's or judicial officer's immediate family."

SECTION 71. G.S. 138A-24(a)(8) reads as rewritten:

"(8) A list of all things with a total value of over two hundred dollars (\$200.00) per calendar quarter given and received without valuable consideration and under circumstances that a reasonable person would conclude that the thing was given for the purpose of lobbying, if such things were given by a person not required to report under Chapter 120C of the General Statutes, excluding things given by a member of the filing person's extended family. The list shall include only those things received during the 12 months preceding the reporting period under subsection (d) of this section, and shall include the source of those things. The list required by this subdivision shall not apply to things of monetary value received by the filing person prior to the time

the filing person filed or was nominated as a candidate for office, as described in G.S. 138A-22, or was appointed or employed as a covered person."

SECTION 72.(a) G.S. 138A-24(a)(10) reads as rewritten:

"(10) Any other ~~economic or financial~~ information that the filing person believes may assist the Commission in advising the filing person with regards to compliance with this Chapter. ~~is necessary either to carry out the purposes of this Chapter or to fully disclose any conflict of interest or potential conflict of interest. If the filing person believes a potential for conflict exists, the filing person has a duty to inquire of the Commission as to that potential conflict. If a filing person is uncertain of whether particular information is necessary, then the filing person shall consult the Commission for guidance.~~"

SECTION 72.(b) This section becomes effective on and after January 1, 2007, and applies to statements of economic interest filed on or after that date.

SECTION 73. G.S. 138A-24(b) reads as rewritten:

"(b) The Supreme Court, the Committee, constitutional officers of the State, heads of principal departments, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, other boards, and the appointing authority or employing entity may require a filing person to file supplemental information in conjunction with the filing of that filing person's statement of economic interest. These supplemental filings requirements shall be filed with the Commission and included on the forms to be filed with the Commission. The Commission shall evaluate the supplemental forms as part of the statement of economic interest. The failure to file supplemental forms shall be subject to the provisions of G.S. 138A-25."

SECTION 74. G.S. 138A-24(e) reads as rewritten:

"(e) The Commission shall prepare a written evaluation of each statement of economic interest relative to conflicts of interest and potential conflicts of interest. This subsection does not apply to statements of economic interest of legislators and judicial officers. The Commission shall submit the evaluation to all of the following:

- (1) The filing person who submitted the statement.
- (2) The head of the agency in which the filing person serves.
- (3) The Governor for gubernatorial appointees and employees in agencies under the Governor's authority.
- (4) ~~The Chief Justice for judicial officers and judicial employees.~~
- (5) The appointing or hiring authority for those public servants not under the Governor's authority.
- (6) The State Board of Elections for those filing persons who are elected.
- (7) ~~The Committee, together with a copy of the statement of economic interest, for legislators."~~

SECTION 74.5. G.S. 138A-24 is amended by adding a new subsection to read:

"(f) The Commission shall prepare a written evaluation of each statement of economic interest for nominees of the Board of Governors of The University of North Carolina elected pursuant to G.S. 116-6, and nominees of the State Board of Community Colleges elected pursuant to G.S. 115D-2 within seven days of the submission of the completed statement of economic interest to the Commission."

SECTION 75. G.S. 138A-25(a) reads as rewritten:

"(a) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify filing persons who have failed to file or filing persons whose statement has been deemed incomplete. For a filing person currently serving as a covered person, the Commission shall notify the filing person that if the statement of economic interest is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be subject to a fine as provided for in this section."

SECTION 77.(a) G.S. 138A-32(c) reads as rewritten:

"(c) No public servant, legislator, or legislative employee shall knowingly accept a gift from a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes. No legislator or legislative employee shall knowingly accept a gift from liaison personnel designated under Chapter 120C of the General Statutes. No public servant, legislator, or legislative employee shall accept a gift ~~from a third party~~ knowing all of the following:

- (1) The ~~third party obtained the gift~~ was obtained indirectly from a lobbyist or lobbyist principal lobbyist, lobbyist's principal, or liaison personnel registered under Chapter 120C of the General Statutes.
- (2) The ~~lobbyist or lobbyist principal lobbyist, lobbyist principal, or liaison personnel~~ registered under Chapter 120C of the General Statutes intended for the ultimate recipient of the gift to be a public servant, legislator, or legislative employee as provided in G.S. 120C-303."

SECTION 77.(b) This section becomes effective December 1, 2008.

SECTION 78.(a) G.S. 138A-32(d1) reads as rewritten:

"(d1) No public servant shall accept a gift ~~from a third party~~ knowing all of the following:

- (1) The ~~third party obtained the gift~~ was obtained indirectly from a person described under subdivisions (d)(1), (2), and (3) of this section.
- (2) The person described under subdivisions (d)(1), (2), and (3) of this section intended for the ultimate recipient of the gift to benefit the ~~be~~ a public servant."

SECTION 78.(b) This section becomes effective December 1, 2008.

SECTION 79. G.S. 138A-32(e)(1) reads as rewritten:

"(1) Food and beverages for immediate consumption in connection with ~~public events~~ any of the following:

- a. An open meeting of a public body, provided that the open meeting is properly noticed under Article 33C of Chapter 143 of the General Statutes.
- b. A gathering of an organization with at least 10 or more individuals in attendance open to the general public, provided that a sign or other communication containing a message that is reasonably designed to convey to the general public that the gathering is open to the general public is displayed at the gathering.
- c. A gathering of a person or governmental unit to which the entire board of which a public servant is a member, at least 10 public servants, all the members of the House of Representatives, all the members of the Senate, all the members of a county or municipal legislative delegation, all the members of a recognized legislative caucus with regular meetings other than meetings with one or more lobbyists, all the members of a

committee, a standing subcommittee, a joint committee or joint commission of the House of Representatives, the Senate, or the General Assembly, or all legislative employees are invited, and one of the following applies:

1. At least 10 individuals associated with the person or governmental unit actually attend, other than the covered person or legislative employee, or the immediate family of the covered person or legislative employee.
2. All shareholders, employees, board members, officers, members, or subscribers of the person or governmental unit located in North Carolina are notified and invited to attend.

For purposes of this sub-subdivision only, the term "invited" shall mean written notice from at least one host or sponsor of the gathering containing the date, time, and location of the gathering given at least 24 hours in advance of the gathering to the specific qualifying group listed in this sub-subdivision. If it is known at the time of the written notice that at least one sponsor is a lobbyist or lobbyist principal, the written notice shall also state whether or not the gathering is permitted under this section."

SECTION 80. G.S. 138A-32(e)(3) reads as rewritten:

- "(3) Reasonable actual expenditures of the legislator, public servant, or legislative employee for food, beverages, registration, travel, lodging, other incidental items of nominal value, and entertainment, in connection with (i) a legislator's, public servant's, or legislative employee's attendance at an educational meeting for purposes primarily related to the public duties and responsibilities of the legislator, public servant, or legislative employee; (ii) a legislator's, public servant's, or legislative employee's participation as a speaker or member of a panel at a meeting; (iii) a legislator's or legislative employee's attendance and participation in meetings of a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or that the legislator or legislative employee is a member or participant of by virtue of that ~~person's~~ legislator's or legislative employee's public position, or as a member of a board, agency, or committee of such organization; or (iv) a public servant's attendance and participation in meetings as a member of a board, agency, or committee of a nonpartisan state, regional, national, or international organization of which the public servant's agency is a member or the public servant is a member by virtue of that ~~person's~~ ~~public servant's~~ public position, provided the following conditions are met:
- a. The reasonable actual expenditures shall be made by a lobbyist's principal, and not a lobbyist.
 - b. Any meeting must be attended by at least 10 or more participants, have a formal agenda, and notice of the meeting has been given at least 10 days in advance.

- c. Any food, beverages, transportation, or entertainment must be provided to all attendees or defined groups of 10 or more attendees as part of the meeting or in conjunction with the meeting.
- d. Any entertainment must be incidental to the principal agenda of the meeting.
- e. If the legislator, public servant, or legislative employee is participating as a speaker or member of a panel, then that legislator, public servant, or legislative employee must be a bona fide speaker or participant."

SECTION 80.5. G.S. 138A-32(e)(5) reads as rewritten:

"(5) Gifts accepted on behalf of the State for use by the State or for the benefit of the State."

SECTION 81. G.S. 138A-32(e)(10)a. reads as rewritten:

"a. The relationship is not related to the ~~person's~~ public servant's, legislator's, or legislative employee's public service or position."

SECTION 82. G.S. 138A-32(e)(12) reads as rewritten:

"(12) Food and beverages for immediate consumption at an organized gathering of a ~~person~~ person, the State, or a governmental unit to which a public servant is invited to attend for purposes primarily related to the public servant's public service or position, and to which at least 10 individuals, other than the public servant, or the public servant's immediate family, actually attend, or to which all shareholders, employees, board members, officers, members, or subscribers of the person or governmental unit who are located in a specific North Carolina office or county are notified and invited to attend."

SECTION 83. G.S. 138A-34 reads as rewritten:

"§ **138A-34. Use of information for private gain.**

A public servant or legislative employee shall not use or disclose nonpublic information gained in the course of, or by reason of, the public servant's or legislative employee's official responsibilities in a way that would affect a personal financial interest of the public servant or legislative employee, a member of the public servant's or legislative employee's extended family, or a person or governmental unit with whom or business with which the public servant or legislative employee is associated. A public servant or legislative employee shall not improperly use or improperly disclose any confidential information."

SECTION 84.(a) G.S. 138A-36 reads as rewritten:

"§ **138A-36. Public servant participation in official actions.**

(a) Except as permitted by subsection (d) of this section and under G.S. 138A-38, no public servant acting in that capacity, authorized to perform an official action requiring the exercise of discretion, shall ~~knowingly~~ participate in an official action by the employing entity if the public servant, ~~a member of the public servant's extended family, a business with which the public servant is associated, or a nonprofit corporation or organization with which the public servant is associated, has an economic interest in,~~ servant knows the public servant or a person with which the public servant is associated may incur a reasonably foreseeable financial benefit from, from the matter under consideration, which financial benefit would impair the public servant's independence of judgment or from which it could reasonably be inferred that the

~~interest or financial benefit would influence the public servant's participation in the official action. A potential benefit includes an economic or financial detriment to a business competitor of (i) the public servant, (ii) a member of the public servant's extended family, (iii) a business with which the public servant is associated, or (iv) a nonprofit corporation or organization with which the public servant is associated. A benefit also includes an economic or financial detriment to (i) the public servant, (ii) a member of the public servant's extended family, (iii) a business with which the public servant is associated, or (iv) a nonprofit corporation or organization with which the public servant is associated.~~

...

(d) If a public servant is uncertain about whether the relationship described in subsection (c) of this section justifies removing the public servant from the proceeding under subsection (c) of this section, the public servant shall disclose the relationship to the ~~person~~individual presiding over the proceeding and seek appropriate guidance. The presiding officer, in consultation with legal counsel if necessary, shall then determine the extent to which the public servant will be permitted to participate. If the affected public servant is the ~~person~~individual presiding, then the vice-chair or any other substitute presiding officer shall make the determination. A good-faith determination under this subsection of the allowable degree of participation by a public servant is presumptively valid and only subject to review under G.S. 138A-12 upon a clear and convincing showing of mistake, fraud, abuse of discretion, or willful disregard of this Chapter.

...."

SECTION 84.(b) G.S. 138A-37 reads as rewritten:

"§ **138A-37. Legislator participation in official actions.**

(a) Except as permitted under G.S. 138A-38, no legislator shall ~~knowingly~~ participate in a legislative action if the ~~legislator, a member of the legislator's extended family, the legislator's client, a business with which the legislator is associated, or a nonprofit corporation or organization with which the legislator is associated,~~ has an economic interest in, or legislator knows the legislator or a person with which the legislator is associated may incur a reasonably and foreseeably foreseeable financial benefit from the action, and if after considering whether the legislator's judgment would be substantially influenced by the ~~interest~~ financial benefit and considering the need for the legislator's particular contribution, including special knowledge of the subject matter to the effective functioning of the legislature, the legislator concludes that an actual ~~economic interest~~ financial benefit does exist which would impair the legislator's independence of judgment. A potential benefit includes an economic or financial detriment to a business competitor of (i) the legislator, (ii) a member of the legislator's extended family, (iii) a business with which the legislator is associated, or (iv) a nonprofit corporation or organization with which the legislator is associated. A benefit also includes an economic or financial detriment to (i) the legislator, (ii) a member of the legislator's extended family, (iii) a business with which the legislator is associated, or (iv) a nonprofit corporation or organization with which the legislator is associated.

(a1) The legislator shall submit in writing to the principal clerk of the house of which the legislator is a member the reasons for the abstention from participation in the legislative matter.

(b) If the legislator has a material doubt as to whether the legislator should act, the legislator may submit the question for an advisory opinion to the State Ethics

Commission in accordance with G.S. 138A-13 or the Legislative Ethics Committee in accordance with G.S. 120-104."

SECTION 84.(c) G.S. 138A-3 reads as rewritten:

"§ 138A-3. Definitions.

The following definitions apply in this Chapter:

...
 (11) ~~Economic interest. — Matters involving a business with which associated or a nonprofit corporation or organization with which associated.~~

...
 (14c) Financial benefit. – A direct pecuniary gain or loss to the legislator, the public servant, or a person with which the legislator or public servant is associated, or a direct pecuniary loss to a business competitor of the legislator, the public servant, or a person with which the legislator or public servant is associated.

...
 (27c) Person with which the legislator is associated. – Any of the following:
 a. A member of the legislator's extended family.
 b. A client of the legislator.
 c. A business with which the legislator or a member of the legislator's immediate family is associated.
 d. A nonprofit corporation or association with which the legislator or a member of the legislator's immediate family is associated.
 e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the legislator or a member of the legislator's immediate family.

(27d) Person with which the public servant is associated. – Any of the following:
 a. A member of the public servant's extended family.
 b. A client of the public servant.
 c. A business with which the public servant or a member of the public servant's immediate family is associated.
 d. A nonprofit corporation or association with which the public servant or a member of the public servant's immediate family is associated.
 e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the public servant or a member of the public servant's immediate family.

...."

SECTION 85. G.S. 138A-38 is amended by adding the following new subsections to read:

"(c) Notwithstanding G.S. 138A-37, if a legislator is employed or retained by, or is an independent contractor of, a governmental unit, and the legislator is the only member of the house elected from the district where that governmental unit is located, then the legislator may take legislative action on behalf of that governmental unit provided the legislator discloses in writing to the principal clerk the nature of the

relationship with the governmental unit prior to, or at the time of, taking the legislative action.

(d) Notwithstanding G.S. 138A-36, service by the president, chief financial officer, chief administrative officer, or voting member of the board of trustees of a community college as an officer, employee, or member of the board of directors of a nonprofit corporation established under G.S. 115D-20(9) to support the community college shall not constitute a conflict of interest under G.S. 138A-36, provided that the majority of the nonprofit corporation's board of directors is not comprised of the president, chief financial officer, and chief administrative officer, or voting members of the board of trustees of the community college which the nonprofit corporation was created to support."

SECTION 86. G.S. 163-278.13C(a)(2) reads as rewritten:

"(2) Is a public servant as defined in ~~G.S. 138A-3(30)a~~. G.S. 138A-3(30)a. and G.S. 120C-104."

SECTION 87. G.S. 163-278.16B(a)(3) reads as rewritten:

"(3) ~~Contributions-Donations~~ to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization."

SECTION 88. G.S. 114-15(a) reads as rewritten:

"(a) The Bureau shall, through its Director and upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in nowise interfere with the power of the Attorney General to make such investigation as ~~he~~ the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Department to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement officers and for the trial of causes. The services of the Director of the Bureau, and of ~~his~~ the Director's assistants, may be required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1). The Bureau also is authorized at the request of the Governor to conduct a background investigation on a person that the Governor plans to nominate for a position that must be confirmed by the General Assembly, the Senate, or the House of Representatives. The background investigation of the proposed nominee shall be limited to an investigation of the person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject

to ~~Executive Order Number 1, filed on January 31, 1985, as contained on pages 1405 through 1419 of the 1985 Session Laws (First Session, 1985). Chapter 138A of the General Statutes.~~ The Governor must give the person being investigated written notice that ~~he~~ the Governor intends to request a background investigation at least 10 days prior to the date that ~~he~~ the Governor requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice."

SECTION 89. G.S. 120-19.4A reads as rewritten:

"§ **120-19.4A. Requests to State Bureau of Investigation for background investigation of a person who must be confirmed by legislative action.**

The President of the Senate or the Speaker of the House may request that the State Bureau of Investigation perform a background investigation on a person who must be appointed or confirmed by the General Assembly, the Senate, or the House of Representatives. The person being investigated shall be given written notice by regular mail at least 10 days prior to the date that the State Bureau of Investigation is requested to perform the background investigation by the presiding officer of the body from which the request originated. There is a rebuttable presumption that the person being investigated received the notice if the presiding officer has a copy of the notice. The State Bureau of Investigation shall perform the requested background investigation and shall provide the information, including criminal records, to the presiding officer of the body from which the request originated. A copy of the information also shall be provided to the person being investigated. The term "background investigation" shall be limited to an investigation of a person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to ~~Executive Order Number 1, filed on January 31, 1985, as contained on pages 1405 through 1419 of the 1985 Session Laws (First Session, 1985). Chapter 138A of the General Statutes.~~"

SECTION 90. The Revisor of Statutes shall change the term "Lobbyist's Principal" to "Lobbyist Principal" wherever it appears in Chapter 138A and Chapter 120C of the General Statutes. The Revisor of Statutes shall change the term "Lobbyist's Principals" to "Lobbyist Principals" wherever it appears in Chapter 138A and Chapter 120C of the General Statutes. The Revisor of Statutes shall change the term "Lobbyist's Principal's" to "Lobbyist Principal's" wherever it appears in Chapter 138A and Chapter 120C of the General Statutes.

SECTION 91. Section 44 of S.L. 2007-348 reads as rewritten:

"**SECTION 44.** Sections 17, 23, 39, 40 and 41 of this act are effective January 1, 2007. Section 9 of this act is effective July 1, 2007. Sections 8, 11, 15, 20, 22, 25, 34 and 42 of this act become effective October 1, 2007. Section 18 of this act becomes effective December 1, 2007. Section 34 of this act becomes effective January 1, 2008. The remainder of this act is effective when this act becomes law."

SECTION 91.5. If Senate Bill 1875, 2007 Regular Session, becomes law, then G.S. 138A-13(b1) as enacted by Section 6 of Senate Bill 1875, reads as rewritten:

"~~(b1)~~(b2) At the request of the Auditor, the Commission shall render advisory opinions on specific questions involving the meaning and application of this Chapter, Article 14 of Chapter 120 of the General Statutes, and Chapter 120C of the General Statutes and an affected person's compliance therewith. The request shall be in writing, electronic or otherwise, and relate to real fact settings and circumstances. Except when

the question involves a question governed by subsection (b) or (b1) of this section, the Commission shall issue an advisory opinion under this subsection within 60 days of the receipt of all information deemed necessary by the Commission to render an opinion. If the question involves a question governed by subsection (b) or (b1) of this section, the Commission shall comply with the provisions of that section prior to responding to the Auditor by delivering the recommended advisory opinion to the Committee within 60 days of the receipt of all information deemed necessary by the Commission to render an opinion. The Committee shall act on the opinion within 30 days of receipt and the Commission shall deliver the opinion to the Auditor. If the Committee fails to act on a recommended advisory opinion under this subsection with 30 days of receipt, the Commission shall deliver its recommended advisory opinion to the Auditor. Notwithstanding G.S. 138A-13(e), the Auditor may only release those portions of the advisory opinion necessary to comply with the requirements of G.S. 147-64.6(c)(1)."

SECTION 92. 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, 2008.

Became law upon approval of the Governor at 11:02 a.m. on the 15th day of August, 2008.

Session Law 2008-214

H.B. 274

AN ACT TO CREATE ADDITIONAL OFFENSES, PENALTIES, AND CRIMINAL PROCEDURE FOR PERSONS INVOLVED IN STREET GANG ACTIVITY AND TO BE ENTITLED THE "NORTH CAROLINA STREET GANG SUPPRESSION ACT."

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-2.3 reads as rewritten:

"§ 14-2.3. **Forfeiture of gain acquired through ~~felonies~~criminal activity.**

(a) Except as is otherwise provided in Article 3 of Chapter 31A, in the case of any violation of Article 13A of Chapter 14, or a general statute constituting a felony other than a nonwillful homicide, any money or other property or interest in property acquired thereby shall be forfeited to the State of North Carolina, including any profits, gain, remuneration, or compensation directly or indirectly collected by or accruing to any ~~felon~~offender.

(b) An action to recover such property shall be brought by either a District Attorney or the Attorney General pursuant to G.S. 1-532. The action must be brought within three years from the date of the conviction for the ~~felony~~offense.

(c) Nothing in this section shall be construed to require forfeiture of any money or property recovered by law-enforcement officers pursuant to the investigation of a ~~felony~~an offense when the money or property is readily identifiable by the owner or guardian of the property or is traceable to him."

SECTION 2. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-34.9. **Discharging a firearm from within an enclosure.**

Unless covered under some other provision of law providing greater punishment, any person who willfully or wantonly discharges or attempts to discharge a firearm, as a part of a pattern of criminal street gang activity, from within any building, structure,

motor vehicle, or other conveyance, erection, or enclosure toward a person or persons not within that enclosure shall be punished as a Class E felon."

SECTION 3. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 13A.

"North Carolina Street Gang Suppression Act.

"§ 14-50.15. Short title.

This Article shall be known and may be cited as the 'North Carolina Street Gang Suppression Act.'

"§ 14-50.16. Pattern of criminal street gang activity.

(a) It is unlawful for any person employed by or associated with a criminal street gang to do either of the following:

- (1) To conduct or participate in a pattern of criminal street gang activity.
- (2) To acquire or maintain any interest in or control of any real or personal property through a pattern of criminal street gang activity.

A violation of this section is a Class H felony, except that a person who violates subdivision (a)(1) of this section, and is an organizer, supervisor, or acts in any other position of management with regard to the criminal street gang, shall be guilty of a Class F felony.

(b) As used in this Article, 'criminal street gang' or 'street gang' means any ongoing organization, association, or group of three or more persons, whether formal or informal, that:

- (1) Has as one of its primary activities the commission of one or more felony offenses, or delinquent acts that would be felonies if committed by an adult;
- (2) Has three or more members individually or collectively engaged in, or who have engaged in, criminal street gang activity; and
- (3) May have a common name, common identifying sign or symbol.

(c) As used in this Article, 'criminal street gang activity' means to commit, to attempt to commit, or to solicit, coerce, or intimidate another person to commit an act or acts, with the specific intent that such act or acts were intended or committed for the purpose, or in furtherance, of the person's involvement in a criminal street gang or street gang. An act or acts are included if accompanied by the necessary mens rea or criminal intent and would be chargeable by indictment under the following laws of this State:

- (1) Any offense under Article 5 of Chapter 90 of the General Statutes (Controlled Substances Act).
- (2) Any offense under Chapter 14 of the General Statutes except Articles 9, 22A, 40, 46, 47, 59 thereof; and further excepting G.S. 14-78.1, 14-82, 14-86, 14-145, 14-179, 14-183, 14-184, 14-186, 14-190.9, 14-195, 14-197, 14-201, 14-247, 14-248, 14-313 thereof.

(d) As used in this Article, 'pattern of criminal street gang activity' means engaging in, and having a conviction for, at least two prior incidents of criminal street gang activity, that have the same or similar purposes, results, accomplices, victims, or methods of commission or otherwise are interrelated by common characteristics and are not isolated and unrelated incidents, provided that at least one of these offenses occurred after December 1, 2008, and the last of the offenses occurred within three years, excluding any periods of imprisonment, of prior criminal street gang activity. Any

offenses committed by a defendant prior to indictment for an offense based upon a pattern of street gang activity shall not be used as the basis for any subsequent indictments for offenses involving a pattern of street gang activity.

"§ 14-50.17. Soliciting; encouraging participation.

(a) It is unlawful for any person to cause, encourage, solicit, or coerce a person 16 years of age or older to participate in criminal street gang activity.

(b) A violation of this section is a Class H felony.

"§ 14-50.18. Soliciting; encouraging participation; minor.

(a) It is unlawful for any person to cause, encourage, solicit, or coerce a person under 16 years of age to participate in criminal street gang activity.

(b) A violation of this section is a Class F felony.

(c) Nothing in this section shall preclude a person who commits a violation of this section from criminal culpability for the underlying offense committed by the minor under any other provision of law.

"§ 14-50.19. Threats to deter from gang withdrawal.

(a) It is unlawful for any person to communicate a threat of injury to a person, or to damage the property of another, with the intent to deter a person from assisting another to withdraw from membership in a criminal street gang.

(b) A violation of this section is a Class H felony.

"§ 14-50.20. Threats of punishment or retaliation.

(a) It is unlawful for any person to communicate a threat of injury to a person, or to damage the property of another, as punishment or retaliation against a person for having withdrawn from a criminal street gang.

(b) A violation of this section is a Class H felony.

"§ 14-50.21. Separate offense.

Any offense committed in violation of G.S. 14-50.16 through G.S. 14-50.20 shall be considered a separate offense.

"§ 14-50.22. Enhanced offense for criminal gang activity.

A person age 15 or older who is convicted of a misdemeanor offense that is committed for the benefit of, at the direction of, or in association with, any criminal street gang is guilty of an offense that is one class higher than the offense committed. A Class A1 misdemeanor shall be enhanced to a Class I felony under this section.

"§ 14-50.23. Contraband, seizure, and forfeiture.

(a) All property of every kind used or intended for use in the course of, derived from, or realized through criminal street gang activity or a pattern of criminal street gang activity is subject to the seizure and forfeiture provisions of G.S. 14-2.3.

(b) In any action under this section, the court may enter a restraining order in connection with any interest that is subject to forfeiture.

(c) Innocent Activities. – The provisions of this section shall not apply to property used for criminal street gang activity where the owner or person who has legal possession of the property does not have actual knowledge that the property is being used for criminal street gang activity.

"§ 14-50.24. Real property used by criminal street gangs declared a public nuisance; abatement.

(a) Public Nuisance. – Any real property that is erected, established, maintained, owned, leased, or used by any criminal street gang for the purpose of conducting criminal street gang activity shall constitute a public nuisance and may be abated as provided by Article 1 of Chapter 19 of the General Statutes.

(b) Innocent Activities. – The provisions of this section shall not apply to real property used for criminal street gang activity where the owner or person who has legal possession of the real property does not have actual knowledge that the real property is being used for criminal street gang activity.

"§ 14-50.25. Reports of disposition; criminal street gang activity.

When a defendant is found guilty of a criminal offense, other than an offense under G.S. 14-50.16 through G.S. 14-50.20, the presiding judge shall determine whether the offense involved criminal street gang activity. If the judge so determines, then the judge shall indicate on the form reflecting the judgment that the offense involved criminal street gang activity. The clerk of court shall ensure that the official record of the defendant's conviction includes a notation of the court's determination.

"§ 14-50.26. Matters proved in criminal trial court.

A conviction of an offense defined as criminal gang activity shall preclude the defendant from contesting any factual matters determined in the criminal proceeding in any subsequent civil action or proceeding based on the same conduct.

"§ 14-50.27. Local ordinances not preempted by State law.

Nothing in this Article shall prevent a local governing body from adopting and enforcing ordinances relating to gangs and gang violence that are consistent with this Article. Where local laws duplicate or supplement the provisions of this Article, this Article shall be construed as providing alternative remedies and not as preempting the field.

"§ 14-50.28. Applicability to juveniles under the age of 16.

Except as provided in G.S. 14-50.22, 14-50.29, and 14-50.30, the provisions of this Article shall not apply to juveniles under the age of 16.

"§ 14-50.29. Conditional discharge for first offenders under the age of 18.

(a) Whenever any person who has 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 or the laws of this State or any other state, pleads guilty to or is guilty of (i) a Class H felony under this Article or (ii) an enhanced offense under G.S. 14-50.22, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation upon such reasonable terms and conditions as the court may require.

(b) If the court, in its discretion, defers proceedings pursuant to this section, it shall place the defendant on supervised probation for not less than one year, in addition to any other conditions. Prior to taking any action to discharge and dismiss under this section, the court shall make a finding that the defendant has no previous criminal convictions. Upon fulfillment of the terms and conditions of the probation provided for in this section, the court shall discharge the defendant and dismiss the proceedings against the defendant.

(c) Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Upon violation of a term or condition of the probation provided for in this section, the court may enter an adjudication of guilt and proceed as otherwise provided.

(d) Upon discharge and dismissal pursuant to this section, the person may apply for an order to expunge the complete record of the proceedings resulting in the dismissal

and discharge, pursuant to the procedures and requirements set forth in G.S. 14-50.30(a). If the court determines, after hearing, that such person was dismissed and the proceedings against the person discharged and that the person had not yet attained 18 years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person in the contemplation of the law to the status the person occupied before such arrest or indictment or information.

(e) 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.

"§ 14-50.30. Expunction of records.

(a) Whenever any person who has 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 or the laws of this State or any other state, pleads guilty to or is guilty of (i) a Class H felony under this Article or (ii) an enhanced offense under G.S. 14-50.22, the person may file a petition in the court where the person was convicted for expunction of the offense from the person's criminal record. Except as provided in G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two years after the date of the conviction or (ii) the completion of any period of probation, whichever occurs later. The petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that the petitioner has been of good behavior (i) during the period of probation since the decision to defer further proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii) during the two-year period since the date of conviction of the offense in question, whichever applies, 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 the petitioner lives, and that the petitioner's character and reputation are good.
- (3) If the petition is filed subsequent to conviction of the offense in question, 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 (i) during the period of probation since the decision to defer further proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii) at any time prior to the conviction for the offense

in question or during the two-year period following that conviction, whichever applies.

- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner 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 probationary period or during the two-year period after conviction.

(b) If the court, after hearing, finds that the petitioner has 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 offense in question, the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against him, and the petitioner had not attained the age of 18 years at the time of the conviction in question, it shall order that such person be restored, in the contemplation of the law, to the status occupied by the petitioner 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 the person's failure to recite or acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made of the person for any purpose. The court shall also order that the said 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 as the result of a criminal charge. 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.

(c) This section is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina."

SECTION 4. G.S. 15A-533 reads as rewritten:

"§ 15A-533. Right to pretrial release in capital and noncapital cases.

...

(d) ~~Subject to rebuttal by the person, it shall be presumed~~ There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds the following:

- (1) There is reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;
- (2) The drug trafficking offense was committed while the person was on pretrial release for another offense; and
- (3) The person has been previously convicted of a Class A through E felony or an offense involving trafficking in a controlled substance and not more than five years has elapsed since the date of conviction or the person's release from prison for the offense, whichever is later.

(e) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds the following:

- (1) There is reasonable cause to believe that the person committed an offense for the benefit of, at the direction of, or in association with, any criminal street gang, as defined in G.S. 14-50.16;
- (2) The offense described in subdivision (1) of this subsection was committed while the person was on pretrial release for another offense; and
- (3) The person has been previously convicted of an offense described in G.S. 14-50.16 through G.S. 14-50.20, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.

~~Such person~~ Persons who are considered for bond under the provisions of subsections (d) and (e) of this section may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community."

SECTION 5. G.S. 15A-1340.16A reads as rewritten:

"§ 15A-1340.16A. Enhanced sentence if defendant is convicted of a Class A, B1, B2, C, D, or E felony and the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony.

(a), (b) Repealed by Session Laws 2003-378, s. 2, effective August 1, 2003.

(c) If a person is convicted of a Class A, B1, B2, C, D, or E felony and it is found as provided in this section that: (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 60 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 60 months, as specified in G.S. 15A-1340.17(e) and (e1).

(d) An indictment or information for the Class A, B1, B2, C, D, or E felony shall allege in that indictment or information the facts set out in subsection (c) of this section. The pleading is sufficient if it alleges that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and the defendant actually possessed the firearm or deadly weapon about the defendant's person. One pleading is sufficient for all Class A, B1, B2, C, D, or E felonies that are tried at a single trial.

(e) The State shall prove the issues set out in subsection (c) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (c) of this section, then a jury shall be impaneled to determine the issues.

(f) Subsection (c) of this section does not apply if the evidence of the use, display, or threatened use or display of the firearm or deadly weapon is needed to prove an element of the felony or if the person is not sentenced to an active term of imprisonment."

SECTION 6. This act becomes effective December 1, 2008, 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, 2008.

Became law upon approval of the Governor at 11:07 a.m. on the 15th day of August, 2008.

Session Law 2008-215**S.B. 1875**

AN ACT TO RECODIFY THE STATE AUDITOR'S HOTLINE AUTHORITY, TO CLARIFY THE AUTHORITY OF THE STATE ETHICS COMMISSION WITH REGARDS TO REFERRALS FROM THE STATE AUDITOR, AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 147-64.6(c)(16) reads as rewritten:

"(16) ~~The Auditor shall be responsible for receiving reports of allegations of the improper governmental activities set forth in G.S. 126-84. as provided in G.S. 147-64.6B. The Auditor shall adopt policies and procedures necessary to provide for the investigation or referral of these allegations. The Auditor shall provide a telephone hotline to receive such allegations and informant may choose whether to remain anonymous. The Auditor shall implement the necessary policies and procedures to investigate hotline allegations and recommend appropriate action. When the allegation involves issues of substantial and specific danger to the public health and safety, the Auditor shall notify the appropriate agency immediately. In addition, the Auditor shall publicize the hotline number periodically and shall report findings to the agencies involved.~~

~~All records maintained by the State Auditor which involve unsubstantiated allegations of improper governmental activities set forth in G.S. 126-84 shall be destroyed within four years from the date such allegation was received."~~

SECTION 1.(b) Article 5A of Chapter 147 is amended by adding a new section to read:

"§ 147-64.6B. Reports of improper governmental activities.

(a) The Auditor shall provide various means, including a telephone hotline, electronic mail, and Internet access to receive reports of allegations of improper governmental activities. The Auditor shall periodically publicize the hotline telephone number, electronic mail address, Internet Web site address, and any other means by which the Auditor may receive reports of allegations of improper governmental activities. Individuals who make a report under this section may choose to remain anonymous until the individual affirmatively consents to having his or her identity disclosed.

(b) The Auditor shall investigate reports of allegations of improper governmental activities of State agencies and State employees within the scope of authority set forth in G.S. 147-64.6, including misappropriation, mismanagement, or waste of State resources, fraud, violations of State or federal law, rule or regulation by State agencies or State employees administering State or federal programs, and substantial and specific danger to the public health and safety. When the allegation involves issues of substantial and specific danger to the public health and safety, the Auditor shall notify the

appropriate State agency immediately. When the Auditor believes that an allegation of improper governmental activity is outside the authority set forth in G.S. 147-64.6, the Auditor shall refer the allegation to the appropriate State agency responsible for the enforcement or administration of the matter for investigation. When the Auditor believes that an allegation of improper governmental activity involves matters set forth in subdivisions (1), (2), or (3) of this subsection, those matters shall be referred as follows:

- (1) Allegations of criminal misconduct to either the State Bureau of Investigation or the District Attorney for the county where the alleged misconduct occurred.
- (2) Allegations of violations of Chapter 138A, Chapter 120C, and Article 14 of Chapter 120 of the General Statutes to the State Ethics Commission.
- (3) Allegations of violations of Chapter 163 of the General Statutes to the State Board of Elections.

(c) All records maintained by the Auditor of reports of unsubstantiated allegations of improper governmental activities shall be destroyed within four years from the date the unsubstantiated allegation was received."

SECTION 2. G.S. 147-64.6(c) is amended by adding a new subdivision to read:

"(c) The Auditor shall be responsible for the following acts and activities:

- ...
- (19) Whenever the Auditor believes that information received or collected by the Auditor may be evidence of a violation of any of the provisions of Chapter 138A of the General Statutes, Chapter 120C of the General Statutes, or Article 14 of Chapter 120 of the General Statutes, the Auditor shall report that information to the State Ethics Commission and the Secretary of State as appropriate. The Auditor shall be bound by interpretations issued by the State Ethics Commission as to whether or not any information reported by the Auditor under this subdivision involves or may involve a violation of Chapter 138A of the General Statutes, Chapter 120C of the General Statutes, or Article 14 of Chapter 120 of the General Statutes. Nothing in this subdivision shall be construed to limit the Auditor's authority under subdivision (1) of this subsection."

SECTION 3. G.S. 147-64.6(d) reads as rewritten:

"(d) Reports and Work Papers. – The Auditor shall maintain for 10 years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under ~~his~~ the Auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of ~~his~~ the Auditor's office shall be retained according to an agreement between the Auditor and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, and notwithstanding the provisions of G.S. 126-24, pertinent work papers and other supportive material related to issued audit reports may be, at the discretion of the Auditor and unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal government who desire access to and inspection of such records in connection with some matter officially before them, including criminal investigations.

Except as provided ~~above~~, in this section, or upon subpoena issued by a duly authorized court or court official, an order issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is necessary to a proper administration of justice, audit work papers and related supportive material shall be kept confidential, including any interpretations, advisory opinions, or other information or materials furnished to or by the State Ethics Commission under this section."

SECTION 4. G.S. 138A-12(b) reads as rewritten:

"(b) Institution of Proceedings. – On its own motion, in response to a signed and sworn complaint of any individual filed with the Commission, or upon the written request of any public servant or any person responsible for the hiring, appointing, or supervising of a public servant, the Commission shall conduct an inquiry into any of the following:

- (1) The application or alleged violation of this Chapter.
- (2) For legislators, the application of alleged violations of Part 1 of Article 14 of Chapter 120 of the General Statutes.
- (3) An alleged violation of the criminal law by a covered person in the performance of that individual's official duties.
- (4) An alleged violation of G.S. 126-14.

Upon receipt of a referral under G.S. 147-64.6B or a report under G.S. 147-64.6(c)(19), the Commission may conduct an inquiry under this section on its own motion. Allegations of violations of the Code of Judicial Conduct shall be referred to the Judicial Standards Commission without investigation."

SECTION 5. G.S. 138A-12(n) reads as rewritten:

"(n) Confidentiality. – Complaints and responses filed with the Commission and reports and other investigative documents and records of the Commission connected to an inquiry under this ~~section~~ section, including information provided pursuant to G.S. 147-64.6B or G.S. 147-64.6(c)(19), shall be confidential and not matters of public record, except as otherwise provided in this section or when the covered person or legislative employee under inquiry requests in writing that the complaint, response, and findings be made public. Once a hearing under this section commences, the complaint, response, and all other documents offered at the hearing in conjunction with the complaint, not otherwise privileged or confidential under law, shall be public records. If no hearing is held at such time as the Commission reports to the employing entity a recommendation of sanctions, the complaint and response shall be made public."

SECTION 6. G.S. 138A-13 is amended by adding a new subsection to read:

"(b1) At the request of the Auditor, the Commission shall render advisory opinions on specific questions involving the meaning and application of this Chapter, Article 14 of Chapter 120 of the General Statutes, and Chapter 120C of the General Statutes and an affected person's compliance therewith. The request shall be in writing, electronic or otherwise, and relate to real fact settings and circumstances. Except when the question involves a question governed by subsection (b) of this section, the Commission shall issue an advisory opinion under this subsection within 60 days of the receipt of all information deemed necessary by the Commission to render an opinion. If the question involves a question governed by subsection (b) of this section, the Commission shall comply with the provisions of that section prior to responding to the Auditor by delivering the recommended advisory opinion to the Committee within 60 days of the receipt of all information deemed necessary by the Commission to render an opinion. The Committee shall act on the opinion within 30 days of receipt and the Commission

shall deliver the opinion to the Auditor. If the Committee fails to act on a recommended advisory opinion under this subsection with 30 days of receipt, the Commission shall deliver its recommended advisory opinion to the Auditor."

SECTION 7. G.S. 138A-10 is amended by adding a new subsection to read:

"(c) Except as otherwise provided in this Chapter, the Commission shall be the sole State agency with authority to determine compliance with or violations of this Chapter and to issue interpretations and advisory opinions under this Chapter. Decisions and advisory opinions by the Commission under this Chapter shall be binding on all other State agencies."

SECTION 8. G.S. 126-85(c) reads as rewritten:

"(c) The protections of this Article shall include State employees who report any activity described in G.S. 126-84 to the State Auditor as authorized by ~~G.S. 147-64.6(c)(16)~~.G.S. 147-64.6B."

SECTION 9. This act is effective when it becomes law and applies to all information received or collected by the State Auditor concerning alleged violations of Chapters 138A or 120C of the General Statutes or Article 14 of Chapter 120 of the General Statutes on or after January 1, 2007.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 11:13 a.m. on the 15th day of August, 2008.

Session Law 2008-216

H.B. 2340

AN ACT TO INCREASE THE PROTECTION OF CHILDREN WHO RIDE IN THE BACK OF PICKUP TRUCKS OR OPEN BEDS OF VEHICLES BY RAISING THE MINIMUM AGE, REMOVING THE EXEMPTION THAT MAKES ALLOWANCE FOR SMALL COUNTIES, AND MODIFYING THE EXEMPTION THAT MAKES AN ALLOWANCE FOR AGRICULTURAL ENTERPRISES, AND INCREASE THE PENALTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-135.2B reads as rewritten:

"§ **20-135.2B. Transporting children under ~~12~~16 years of age in open bed or open cargo area of a vehicle prohibited; exceptions.**

(a) The operator of a vehicle having an open bed or open cargo area shall ~~insure~~ ensure that no child under ~~12~~16 years of age is transported in the bed or cargo area of that vehicle. An open bed or open cargo area is a bed or cargo area without permanent overhead restraining construction.

(b) Subsection (a) of this section does not apply in any of the following circumstances:

- (1) An adult is present in the bed or cargo area of the vehicle and is supervising the child.
- (2) The child is secured or restrained by a seat belt manufactured in compliance with Federal Motor Vehicle Safety Standard No. 208, installed to support a load strength of not less than 5,000 pounds for each belt, and of a type approved by the Commissioner.
- (3) An emergency situation exists.

- (4) The vehicle is being operated in a ~~parade pursuant to a valid permit parade.~~
- (5) The vehicle is being operated in an agricultural ~~enterprise enterprise,~~ including providing transportation to and from the principal place of the agricultural enterprise.
- (6) ~~The vehicle is being operated in a county that has no incorporated area with a population in excess of 3,500.~~

(c) Any person violating this section shall have committed an infraction and shall pay a penalty of not more than twenty-five dollars ~~(\$25.00)-(\$25.00)~~, even if more than one child less than 16 years of age is riding in the open bed or open cargo area of a vehicle. ~~Conviction of an infraction under this section has no consequence other than payment of a penalty.~~ A person found responsible for a violation of this section may not be assessed court costs.

(d) No drivers license points or insurance surcharge shall be assessed on account of violation of this section. A violation of this section shall not constitute negligence per se."

SECTION 2. This act becomes effective October 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 11:10 a.m. on the 16th day of August, 2008.

Session Law 2008-217

H.B. 2487

AN ACT TO CHANGE THE FORMAT OF A DRIVERS LICENSE OR SPECIAL IDENTIFICATION CARD BEING ISSUED TO A PERSON LESS THAN TWENTY-ONE YEARS OF AGE FROM A HORIZONTAL FORMAT TO A VERTICAL FORMAT TO MAKE RECOGNITION OF UNDERAGE PERSONS MORE EASY FOR CLERKS DEALING IN RESTRICTED AGE SALES OF PRODUCTS SUCH AS ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS AS RECOMMENDED BY THE CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(n) reads as rewritten:

"(n) Format. – A drivers license issued by the Division must be tamperproof and must contain all of the following information:

- (1) An identification of this State as the issuer of the license.
- (2) The license holder's full name.
- (3) The license holder's residence address.
- (4) A color photograph of the license holder, taken by the Division.
- (5) A physical description of the license holder, including sex, height, eye color, and hair color.
- (6) The license holder's date of birth.
- (7) An identifying number for the license holder assigned by the Division. The identifying number may not be the license holder's social security number.
- (8) Each class of motor vehicle the license holder is authorized to drive and any endorsements or restrictions that apply.

- (9) The license holder's signature.
- (10) The date the license was issued and the date the license expires.

The Commissioner may waive the requirement of a color photograph on a license if the license holder proves to the satisfaction of the Commissioner that taking the photograph would violate the license holder's religious convictions. In taking photographs of license holders, the Division must distinguish between license holders who are less than 21 years old and license holders who are at least 21 years old by using different color backgrounds or borders for each group. The Division shall determine the different colors to be used. The Commissioner shall ensure that applicants 21 years old or older are issued drivers licenses and special identification cards that are printed in a horizontal format. The Commissioner shall ensure that applicants under the age of 21 are issued drivers licenses and special identification cards that are printed in a vertical format, that distinguishes them from the horizontal format, for ease of identification of individuals under age 21 by members of industries that regulate controlled products that are sale restricted by age and law enforcement officers enforcing these laws.

At the request of an applicant for a drivers license, a license issued to the applicant must contain the applicant's race."

SECTION 2. The Office of State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative.

SECTION 3. This act becomes effective October 1, 2008, and applies to drivers licenses and special identification cards issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2008.

Became law upon approval of the Governor at 11:20 a.m. on the 16th day of August, 2008.

Session Law 2008-218

S.B. 132

AN ACT TO EXPAND THE SCOPE OF CERTAIN PORNOGRAPHY LAWS BY AMENDING THE DEFINITION OF SEXUAL ACTIVITY; TO INCREASE THE PENALTY FOR FIRST, SECOND, AND THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR; TO INCREASE THE PENALTY IN CERTAIN CIRCUMSTANCES WHERE THERE IS A SOLICITATION BY COMPUTER TO COMMIT AN UNLAWFUL SEX ACT AND TO PROVIDE FOR CIVIL LIABILITY; TO MAKE IT A FELONY FOR A REGISTERED SEX OFFENDER TO ACCESS A COMMERCIAL SOCIAL NETWORKING WEB SITE; AND TO PROHIBIT A REGISTERED SEX OFFENDER FROM OBTAINING A NAME CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-190.13 reads as rewritten:

"§ 14-190.13. **Definitions for certain offenses concerning minors.**

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a minor; G.S. 14-190.18, promoting prostitution of a minor; ~~and~~ G.S. 14-190.19, participating in prostitution of a minor.

- (1) Harmful to Minors. – That quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:
 - a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and
 - b. The average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and
 - c. The material or performance lacks serious literary, artistic, political, or scientific value for minors.
- (2) Material. – Pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words.
- (3) Minor. – An individual who is less than 18 years old and is not married or judicially emancipated.
- (4) Prostitution. – Engaging or offering to engage in sexual activity with or for another in exchange for anything of value.
- (5) Sexual Activity. – Any of the following acts:
 - a. Masturbation, whether done alone or with another human or an animal.
 - b. Vaginal, anal, or oral intercourse, whether done with another human or with an animal.
 - c. Touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female.
 - d. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a person clad in undergarments or in revealing or bizarre costume.
 - e. Excretory functions; provided, however, that this sub-subdivision shall not apply to G.S. 14-190.17A.
 - f. The insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.
 - g. The lascivious exhibition of the genitals or pubic area of any person.
- (6) Sexually Explicit Nudity. – The showing of:
 - a. Uncovered, or less than opaquely covered, human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast, except as provided in G.S. 14-190.9(b); or
 - b. Covered human male genitals in a discernibly turgid state."

SECTION 2. G.S. 14-190.16(d) reads as rewritten:

"(d) Punishment and Sentencing. – Violation of this section is a ~~Class D felony~~.Class C felony."

SECTION 3. G.S. 14-190.17(d) reads as rewritten:

"(d) Punishment and Sentencing. – Violation of this section is a ~~Class F felony~~.Class E felony."

SECTION 4. G.S. 14-190.17A(d) reads as rewritten:

"(d) Punishment and Sentencing. – Violation of this section is a ~~Class I felony~~.Class H felony."

SECTION 5. G.S. 14-202.3(c) reads as rewritten:

"(c) Punishment. – A violation of this section is a ~~Class H felony~~.punishable as follows:

- (1) A violation is a Class H felony except as provided by subdivision (2) of this subsection.
- (2) If either the defendant, or any other person for whom the defendant was arranging the meeting in violation of this section, actually appears at the meeting location, then the violation is a Class G felony."

SECTION 6. Article 26 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-202.5. Ban use of commercial social networking Web sites by sex offenders.

(a) Offense. – It is unlawful for a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to access a commercial social networking Web site where the sex offender knows that the site permits minor children to become members or to create or maintain personal Web pages on the commercial social networking Web site.

(b) For the purposes of this section, a "commercial social networking Web site" is an Internet Web site that meets all of the following requirements:

- (1) Is operated by a person who derives revenue membership fees, advertising, or other sources related to the operation of the Web site.
- (2) Facilitates the social introduction between two or more persons for the purposes of friendship, meeting other persons, or information exchanges.
- (3) Allows users to create Web pages or personal profiles that contain information such as the name or nickname of the user, photographs placed on the personal Web page by the user, other personal information about the user, and links to other personal Web pages on the commercial social networking Web site of friends or associates of the user that may be accessed by other users or visitors to the Web site.
- (4) Provides users or visitors to the commercial social networking Web site mechanisms to communicate with other users, such as a message board, chat room, electronic mail, or instant messenger.

(c) A commercial social networking Web site does not include an Internet Web site that either:

- (1) Provides only one of the following discrete services: photo-sharing, electronic mail, instant messenger, or chat room or message board platform; or
- (2) Has as its primary purpose the facilitation of commercial transactions involving goods or services between its members or visitors.

(d) Jurisdiction. – The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(e) Punishment. – A violation of this section is a Class I felony."

SECTION 7. Article 26 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-202.5A. Liability of commercial social networking sites.

(a) Notwithstanding the provisions of G.S. 14-208.15A(f), a commercial social networking site, as defined in G.S. 14-202.5, may be held civilly liable for damages for failing to make reasonable efforts to prevent a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to access its Web site.

(b) For the purposes of this section, "access" is defined as allowing the sex offender to do any of the activities or actions described in G.S. 14-202.5(b)(2) through G.S. 14-202.5(b)(4) by utilizing the Web site."

SECTION 8. Article 26 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-202.6. Ban on name changes by sex offenders.

It is unlawful for a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to obtain a change of name under Chapter 101 of the General Statutes."

SECTION 9. G.S. 101-6 is amended by adding a new subsection to read:

"(c) A sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes is prohibited from obtaining a change of name under this Chapter."

SECTION 10. 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 11. Section 7 of this act becomes effective May 1, 2009, and applies to acts occurring on or after that date. The remainder of this act becomes effective December 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

Became law upon approval of the Governor at 11:23 a.m. on the 16th day of August, 2008.

Session Law 2008-219

S.B. 1924

AN ACT TO AUTHORIZE THE NORTH CAROLINA BUILDING CODE COUNCIL TO STUDY AND ADOPT PROVISIONS IN THE BUILDING CODE PERTAINING TO THE INSTALLATION OF CARBON MONOXIDE DETECTORS IN CERTAIN SINGLE-FAMILY OR MULTIFAMILY DWELLINGS; TO REQUIRE THE INSTALLATION OF OPERATIONAL CARBON MONOXIDE DETECTORS IN CERTAIN RESIDENTIAL RENTAL PROPERTY; TO PROVIDE FOR MUTUAL OBLIGATIONS BETWEEN LANDLORDS AND TENANTS REGARDING THE INSTALLATION AND UPKEEP OF CARBON MONOXIDE DETECTORS; AND TO MAKE

CONFORMING CHANGES, AS RECOMMENDED BY THE NORTH CAROLINA CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that nothing in this Article shall be construed to make any building rules applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars (\$20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices [the following:]

- (1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,
- (2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and
- (3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently

attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

SECTION 2. G.S. 42-42(a) is amended by adding the following new subdivision to read:

"(a) The landlord shall:

...

- (7) Provide a minimum of one operable carbon monoxide detector per rental unit per level, either battery-operated or electrical, that is listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide detectors in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. A landlord that installs one carbon monoxide detector per rental unit per level shall be deemed to be in compliance with standards under this subdivision covering the location and number of detectors. The landlord shall replace or repair the carbon monoxide detectors within 15 days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. The landlord shall ensure that a carbon monoxide detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated carbon monoxide detector at the beginning of a tenancy, and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke. This subdivision applies only to dwelling units

having a fossil-fuel burning heater or appliance, fireplace, or an attached garage.

...."

SECTION 3. G.S. 42-43(a)(4) and (a)(7) read as rewritten:

"§ 42-43. Tenant to maintain dwelling unit.

(a) The tenant shall:

...

(4) Not deliberately or negligently destroy, deface, damage, or remove any part of the premises, nor render inoperable the smoke detector or carbon monoxide detector provided by the landlord, or knowingly permit any person to do so.

...

(7) Notify the landlord, in writing, of the need for replacement of or repairs to a smoke ~~detector~~detector or carbon monoxide detector. The landlord shall ensure that a smoke detector ~~is~~and carbon monoxide detector are operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated smoke detector and battery-operated carbon monoxide detector at the beginning of a tenancy and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord."

SECTION 4. G.S. 42-44 reads as rewritten:

"§ 42-44. General remedies, penalties, and limitations.

(a) Any right or obligation declared by this Chapter is enforceable by civil action, in addition to other remedies of law and in equity.

(a1) If a landlord fails to provide, install, replace, or repair a smoke detector under the provisions of G.S. 42-42(a)(5) or a carbon monoxide detector under the provisions of G.S. 42-42(a)(7) within 30 days of having received written notice from the tenant or any agent of State or local government of the landlord's failure to do so, the landlord shall be responsible for an infraction and shall be subject to a fine of not more than two hundred fifty dollars (\$250.00) for each violation. The landlord may temporarily disconnect a smoke detector or carbon monoxide detector in a dwelling unit or common area for construction or rehabilitation activities when such activities are likely to activate the smoke detector or carbon monoxide detector or make it inactive.

(a2) If a smoke detector or carbon monoxide detector is disabled or damaged, other than through actions of the landlord, the landlord's agents, or acts of God, the tenant shall reimburse the landlord the reasonable and actual cost for repairing or replacing the smoke detector or carbon monoxide detector within 30 days of having received written notice from the landlord or any agent of State or local government of the need for the tenant to make such reimbursement. If the tenant fails to make reimbursement within 30 days, the tenant shall be responsible for an infraction and subject to a fine of not more than one hundred dollars (\$100.00) for each violation. The tenant may temporarily disconnect a smoke detector or carbon monoxide detector in a dwelling unit to replace the batteries or when it has been inadvertently activated.

(b) Repealed by Session Laws 1979, c. 820, s. 8.

(c) The tenant may not unilaterally withhold rent prior to a judicial determination of a right to do so.

(d) A violation of this Article shall not constitute negligence per se."

SECTION 5. The amendment to G.S. 143-138(b) contained in Section 1 of this act shall not be construed to imply that the Building Code Council does not possess the authority contained in that amendment prior to the effective date of Section 1 of this act.

SECTION 6. Any operable carbon monoxide detector installed before January 1, 2010, shall be deemed to be in compliance with the provisions of G.S. 42-42(a)(7) as set forth in Section 2 of this act.

SECTION 7. The Building Code Council shall study the needs and benefits of carbon monoxide detectors as set forth in provisions in Section 1 of this act and report the results of its study to the General Assembly on or before July 1, 2009.

SECTION 8. Sections 2, 3, and 4 of this act become effective January 1, 2010, and apply to residential rental agreements in effect on and after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 11:33 a.m. on the 16th day of August, 2008.

Session Law 2008-220

S.B. 1736

AN ACT TO ADD FELONY CHILD ABUSE TO THE LIST OF SEX OFFENDER REGISTRY OFFENSES WHEN THE OFFENSE INVOLVES PROSTITUTION OF A JUVENILE OR THE COMMISSION OF A SEXUAL ACT UPON A JUVENILE, TO REQUIRE THAT A SEX OFFENDER REGISTER HIS OR HER ELECTRONIC MAIL ADDRESS OR OTHER ONLINE IDENTIFIER IN THE STATEWIDE SEX OFFENDER REGISTRY, TO ALLOW LIMITED RELEASE OF ONLINE IDENTIFIER INFORMATION IN THE SEX OFFENDER REGISTRY TO CERTAIN ENTITIES THAT PROVIDE ELECTRONIC MAIL SERVICES AND OTHER INTERNET SERVICES FOR THE PURPOSE OF SCREENING ONLINE USERS, TO DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP PROCEDURES TO ENSURE TIMELY NOTIFICATION OF THE DIVISION OF CRIMINAL INFORMATION AND SHERIFFS OF PERSONS REQUIRED TO REGISTER WHO ARE NOT SENTENCED TO ACTIVE TIME, AND TO AUTHORIZE FUNDS FOR THE GOVERNOR'S CRIME COMMISSION TO USE TO AWARD AS MATCHING GRANTS TO ELIGIBLE SHERIFFS' OFFICES TO ENHANCE AND SUPPORT THEIR EFFORTS TO ENFORCE THE STATE'S SEX OFFENDER LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. **Definitions.**

The following definitions apply in this Article:

- (1a) "Aggravated offense" means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.

- (1b) "County registry" means the information compiled by the sheriff of a county in compliance with this Article.
- (1c) "Division" means the Division of Criminal Information of the Department of Justice.
- (1d) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.
- ~~(1d)~~(1e) "Employed" includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- (1f) "Entity" means a business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service, or electronic instant message or chat services whether the business or organization is within or outside the State.
- (1g) "Instant Message" means a form of real-time text communication between two or more people. The communication is conveyed via computers connected over a network such as the Internet.
- ~~(1e)~~(1h) "Institution of higher education" means any postsecondary public or private educational institution, including any trade or professional institution, college, or university.
- (1i) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on the communications and related infrastructure described in this subdivision.
- ~~(1f)~~(1j) "Mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others.
- ~~(1g)~~(1k) "Nonresident student" means a person who is not a resident of North Carolina but who is enrolled in any type of school in the State on a part-time or full-time basis.
- ~~(1h)~~(1l) "Nonresident worker" means a person who is not a resident of North Carolina but who has employment or carries on a vocation in the State, on a part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.
- ~~(1i)~~(1m) "Offense against a minor" means any of the following offenses if the offense is committed against a minor, and the person committing the

offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The term also includes the following if the person convicted of the following is not the minor's parent: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

- (1n) "Online identifier" means electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.
- (2) "Penal institution" means:
- a. A detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction;
 - b. A detention facility operated under the jurisdiction of another state or the federal government; or
 - c. A detention facility operated by a local government in this State or another state.
- (2a) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.
- (2b) "Recidivist" means a person who has a prior conviction for an offense that is described in G.S. 14-208.6(4).
- (3) "Release" means discharged or paroled.
- (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, or a final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state.
 - 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), (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.
- (5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first

degree sexual offense), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1)(felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), or G.S. 14-202.3 (Solicitation of child by computer to commit an unlawful sex act), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

- (6) "Sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.
- (7) "Sheriff" means the sheriff of a county in this State.
- (8) "Statewide registry" means the central registry compiled by the Division in accordance with G.S. 14-208.14.
- (9) "Student" means a person who is enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education."

SECTION 2. G.S. 14-208.7(b) reads as rewritten:

"(b) The Division shall provide each sheriff with forms for registering persons as required by this Article. The registration form shall ~~require~~require all of the following:

- (1) The person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, drivers license number, and home ~~address;~~address.
- (2) The type of offense for which the person was convicted, the date of conviction, and the sentence ~~imposed;~~imposed.
- (3) A current ~~photograph;~~photograph taken by the sheriff, without charge, at the time of registration.
- (4) The person's ~~fingerprints;~~fingerprints taken by the sheriff, without charge, at the time of registration.
- (5) A statement indicating whether the person is a student or expects to enroll as a student within a year of registering. If the person is a student or expects to enroll as a student within a year of registration,

then the registration form shall also require the name and address of the educational institution at which the person is a student or expects to enroll as a ~~student; and~~ student.

- (6) A statement indicating whether the person is employed or expects to be employed at an institution of higher education within a year of registering. If the person is employed or expects to be employed at an institution of higher education within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is or expects to be employed.

- (7) Any online identifier that the person uses or intends to use.

~~The sheriff shall photograph the individual at the time of registration and take fingerprints from the individual at the time of registration both of which will be kept as part of the registration form. The registrant will not be required to pay any fees for the photograph or fingerprints taken at the time of registration."~~

SECTION 3. G.S. 14-208.8(a) reads as rewritten:

"(a) At least 10 days, but not earlier than 30 days, before a person who will be subject to registration under this Article is due to be released from a penal institution, an official of the penal institution ~~shall;~~ shall do all of the following:

- (1) Inform the person of the person's duty to register under this Article and require the person to sign a written statement that the person was so informed or, if the person refuses to sign the statement, certify that the person was so ~~informed;~~ informed.
- (2) Obtain the registration information required under G.S. 14-208.7(b)(1), (2), (5), ~~and (6);~~ (6), and (7), as well as the address where the person expects to reside upon the person's ~~release; and~~ release.
- (3) Send the Division and the sheriff of the county in which the person expects to reside the information collected in accordance with subdivision (2) of this subsection."

SECTION 4. The catch line for G.S. 14-208.9 reads as rewritten:

"§ 14-208.9. Change of address; change of academic status or educational employment status; change of online identifier."

SECTION 5. G.S. 14-208.9 is amended by adding a new subsection to read:

"(e) If a person required to register changes an online identifier, or obtains a new online identifier, then the person shall, within 10 days, report in person to the sheriff of the county with whom the person registered to provide the new or changed online identifier information to the sheriff. The sheriff shall immediately forward this information to the Division."

SECTION 6. G.S. 14-208.9A(a)(3) reads as rewritten:

- "(3) The verification form shall be signed by the person and shall indicate the following:
- a. ~~whether~~ Whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.
 - b. Whether the person still uses or intends to use any online identifiers last reported to the sheriff. If the person has any new or different online identifiers, then the person shall provide those online identifiers to the sheriff."

SECTION 7. G.S. 14-208.11(a) is amended by adding a new subdivision to read:

"(10) Fails to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use."

SECTION 8. G.S. 14-208.14(a) is amended by adding a new subdivision to read:

"(5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry."

SECTION 9. Part 2 of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.15A. Release of online identifiers to entity; fee.

(a) The Division may release registry information regarding a registered offender's online identifier to an entity for the purpose of allowing the entity to prescreen users or to compare the online identifier information with information held by the entity as provided by this section.

(b) An entity desiring to prescreen its users or compare its database of registered users to the list of online identifiers of persons in the statewide registry may apply to the Division to access the information. An entity that complies with the criteria developed by the Division regarding the release and use of the online identifier information and pays the fee may screen new users or compare its database of registered users to the list of online identifiers of persons in the statewide registry as frequently as the Division may allow for the purpose of identifying a registered user associated with an online identifier contained in the statewide registry.

(c) The Division may charge an entity that submits a request for the online identifiers of persons in the statewide registry an annual fee of one hundred dollars (\$100.00). Fees collected under this section shall be credited to the Department of Justice and applied to the cost of providing this service.

(d) The Division shall develop criteria and adopt rules regarding the release and use of online identifier information. The criteria shall include a requirement that the information obtained from the statewide registry shall not be disclosed for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the statewide registry.

(e) An entity that receives:

(1) A complaint from a user of the entity's services that a person uses its service to solicit a minor by computer to commit an unlawful sex act as defined in G.S. 14-202.3, or

(2) A report that a user may be violating G.S. 14-190.17 or G.S. 14-190.17A by posting or transmitting material that contains a visual representation of a minor engaged in sexual activity,

shall report that information and the online identifier information of the person allegedly committing the offense, including whether that online identifier is included in the statewide registry, to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to an appropriate law enforcement official in this State. The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(f) An entity that complies with this section in good faith is immune from civil or criminal liability resulting from either of the following:

- (1) The entity's refusal to provide system service to a person on the basis that the entity reasonably believed that the person was subject to registration under State sex offender registry laws.
- (2) A person's criminal or tortious acts against a minor with whom the person had communicated on the entity's system."

SECTION 10. By December 1, 2008, the Administrative Office of the Courts, in consultation with the North Carolina Department of Justice, the North Carolina Department of Correction, and the North Carolina Sheriffs' Association shall develop a procedure to ensure timely notification to the Division of Criminal Information, Department of Justice, and to sheriffs regarding any person subject to registration under Article 27A of Chapter 14 of the General Statutes who does not receive an active term of imprisonment, as specified in G.S. 14-208.7(a).

SECTION 11.(a) Funds are authorized to be allocated to the Governor's Crime Commission for award as grants to eligible sheriffs' offices to assist with the enforcement of the State's sex offender laws. The grants shall be awarded specifically to enhance and support law efforts by sheriffs to do the following: (i) process and conduct in-person sex offender registrations, (ii) monitor compliance of sex offenders as required under Article 27A of Chapter 14 of the General Statutes, and (iii) conduct activities to investigate and apprehend persons who commit reportable offenses as defined under Article 27A of Chapter 14 of the General Statutes. Eligible sheriffs' offices are required to provide non-State matching funds equal to fifty percent (50%) of the grant amount awarded under this section, one-half of which may be in in-kind contributions.

SECTION 11.(b) The Commission shall establish the criteria regarding the eligibility and amount of the awards for the grants described in this section. The grant criteria shall include consideration of all of the following:

- (1) The number of convicted sex offenders in the county of the applicant.
- (2) The level of community support for the grant award.
- (3) Whether the application identifies a problem that is consistent with the purposes of this initiative.
- (4) The applicant's development and maintenance of a process to regularly exchange information and intelligence with other public safety agencies.
- (5) Whether the application articulates clearly the jurisdiction's goals, outcomes, and objectives and describes the accountability system and performance measures to determine progress towards achieving them.

SECTION 11.(c) Any grants allocated shall not revert to the General Fund but shall remain with the Commission for the purposes described in this section.

SECTION 11.(d) The grant funds described by this section shall supplement, and not supplant, existing funds and services provided for the tracking of registered sex offenders. The grants shall be subject to established fiscal controls, annual reporting, and accountability requirements specified by the Commission.

SECTION 11.(e) There is appropriated from the General Fund to the Department of Crime Control and Public Safety the sum of two hundred fifty thousand dollars (\$250,000) for fiscal year 2008-2009 to be allocated to the Governor's Crime Commission to award as grants of up to twenty-five thousand dollars (\$25,000) each to eligible sheriffs' offices to assist with the enforcement of the State's sex offender laws.

SECTION 12. Sections 10 and 12 of this act are effective when they become law. Section 11 of this act becomes effective July 1, 2008. The provision in Section 1

of this act amending G.S. 14-208.6(5) becomes effective December 1, 2008, and applies to all persons convicted on or after that date, and to all persons released from a penal institution on or after that date. The remainder of this act becomes effective May 1, 2009, and applies to persons who are required to be registered under Article 27A of Chapter 14 of the General Statutes on or after that date. The requirements related to online identifiers apply to persons whose initial registration under Article 27A of Chapter 14 of the General Statutes occurs on or after May 1, 2009, and to persons who are registered under Article 27 of Chapter 14 of the General Statutes prior to May 1, 2009, and continue to be registered on May 1, 2009. However, any person registered under Article 27 of Chapter 14 of the General Statutes prior to May 1, 2009, and continuing to be registered on May 1, 2009, shall not be in violation of the online identifier requirements if they provide the required information at the first verification of information that occurs on or after May 1, 2009.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 11:56 a.m. on the 16th day of August, 2008.

Session Law 2008-221

S.B. 1695

AN ACT TO MAKE VARIOUS CHANGES TO THE MOTOR VEHICLE LAWS RELATED TO DRIVERS LICENSES, REGISTRATION PLATES ISSUED TO FARM VEHICLES, AND VEHICLE SIZE AND WEIGHT LIMITATIONS, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(a)(3) reads as rewritten:

- "(3) Class C. – A Class C license authorizes the holder to drive any of the following:
- a. A Class C motor vehicle that is not a commercial motor vehicle.
 - b. When operated by a volunteer member of a fire department, a rescue squad, or an emergency medical service (EMS) in the performance of duty, a Class A or Class B fire-fighting, rescue, or EMS motor vehicle or a combination of these vehicles.
 - c. A combination of noncommercial motor vehicles that have a GVWR of more than 10,000 pounds but less than 26,001 pounds. This sub-subdivision does not apply to a Class C license holder less than 18 years of age."

SECTION 2. G.S. 20-88(b)(3) reads as rewritten:

- "(3) License plates issued at the farmer rate shall be placed upon trucks and truck-tractors that are operated ~~exclusively in the~~ for the primary purpose of carrying or transportation transporting of the applicant's farm products, raised or produced on his the applicant's farm, and farm supplies supplies. The license plates shall not be used on a vehicle and not operated in hauling for hire."

SECTION 3. G.S. 20-115.1(g) reads as rewritten:

"(g) Under certain conditions, and after consultation with the Joint Legislative Commission on Governmental Operations, the North Carolina Department of

Transportation may designate State highway system roads in addition to those highways designated by the United States Secretary of Transportation for use by the vehicle combinations authorized in this section. Such designations by the Department shall only be made under the following conditions:

- (1) A determination of the public convenience and need for such designation;
- (2) A traffic engineering study which clearly shows the road proposed to be designated can safely accommodate and has sufficient capacity to handle these vehicle combinations; and
- (3) A public hearing is held or the opportunity for a public hearing is provided in each county through which the designated highway passes, after two weeks notice posted at the courthouse and published in a newspaper of general circulation in each county through which the designated State highway system road passes, and consideration is given to the comments received prior to the designation.
- (4) The Department may designate routes for one particular type of STAA (Surface Transportation Assistance Act) dimensioned vehicle when significant, substantial differences in their operating characteristics exist.

~~No portion of the State highway system within municipal corporate limits may be designated by the Department without concurrence by the municipal governing body. Also, the~~ The Department may not designate any portion of the State highway system that has been deleted or exempted by the United States Secretary of Transportation based on safety considerations. For the purpose of this section, any highway designated by the Department shall be deemed to be the same as a federal-aid primary highway designated by the United States Secretary of Transportation pursuant to 49 USC 2311 and 49 USC 2316, and the vehicle combinations authorized in this section shall be permitted to operate on such highway."

SECTION 4. G.S. 20-115.1(b) reads as rewritten:

"(b) Motor vehicle combinations consisting of a semitrailer of not more than 53 feet in length and a truck tractor may be operated on ~~the interstate highways (except those exempted by the United States Secretary of Transportation pursuant to 49 U.S.C. 2311(i)) and federal aid primary system highways designated by the United States Secretary of Transportation~~ all primary highway routes of North Carolina provided that the motor vehicle combination meets the requirements of this subsection. The Department may, at any time, prohibit motor vehicle combinations on portions of any route on the State highway system. If the Department prohibits a motor vehicle combination on any route, it shall submit a written report to the Joint Legislative Transportation Oversight Committee within six months of the prohibition clearly documenting through traffic engineering studies that the operation of a motor vehicle combination on that route cannot be safely accommodated and that the route does not have sufficient capacity to handle the vehicle combination. To operate on a primary highway route, a motor vehicle combination described in this subsection must meet all of the following requirements:

- (1) ~~Any~~ The motor vehicle combination must comply with the weight requirements in G.S. 20-118.
- (2) A semitrailer in excess of 48 feet in length shall not be permitted unless: must meet one or more of the following conditions:

- a. The distance between the kingpin of the trailer and the rearmost axle, or a point midway between the two rear axles, if the two rear axles are a tandem axle, does not exceed 41 ~~feet; or~~ feet.
 - b. The semitrailer is used exclusively or primarily to transport vehicles in connection with motorsports competition events, and the distance between the kingpin of the trailer and the rearmost axle, or a point midway between the two rear axles, if the two rear axles are a tandem axle, does not exceed 46 ~~feet;~~ feet. ~~and~~
- (2)(3) ~~Any A~~ semitrailer in excess of 48 feet ~~is~~ must be equipped with a rear underride guard of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than 30 inches from the surface as measured with the vehicle empty and on a level surface."

SECTION 5. G.S. 20-116(e) reads as rewritten:

"(e) Except as provided by G.S. 20-115.1, no combination of vehicles coupled together shall consist of more than two units and no such combination of vehicles shall exceed a total length of 60 feet inclusive of front and rear bumpers, subject to the following exceptions: Motor vehicle combinations of one semitrailer of not more than 48-~~53~~ feet in length and a truck tractor (power unit) may exceed the 60-foot maximum length. Said length limitation shall not apply to vehicles operated in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, nor to such vehicles transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties, but in respect to such night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of said projecting load to clearly mark the dimensions of such load: Provided that vehicles designed and used exclusively for the transportation of motor vehicles shall be permitted an overhang tolerance front or rear not to exceed five feet. Provided, that wreckers may tow a truck, combination tractor and trailer, trailer, or any other disabled vehicle or combination of vehicles to a place for repair, parking, or storage within 50 miles of the point where the vehicle was disabled and may tow a truck, tractor, or other replacement vehicle to the site of the disabled vehicle. Provided, however, that a combination of a house trailer used as a mobile home, together with its towing vehicle, shall not exceed a total length of 55 feet exclusive of front and rear bumpers. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to trailers not exceeding three in number drawn by a motor vehicle used by municipalities for the removal of domestic and commercial refuse and street rubbish, but such combination of vehicles shall not exceed a total length of 50 feet inclusive of front and rear bumpers. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to a combination of vehicles coupled together by a saddle mount device used to transport motor vehicles in a driveway service when no more than three saddle mounts are used and provided further, that equipment used in said combination is approved by the safety regulations of the Federal Highway Administration and the safety rules of the Department of Crime Control and Public Safety."

SECTION 6. G.S. 20-116(j) reads as rewritten:

"(j) Nothing in this section shall be construed to prevent the operation of self-propelled self-propelled grain combines or other farm equipment self-propelled, pulled-pulled, or otherwise, not exceeding 18-25 feet in width may be operated on any highway, except a highway or section of highway that is a fully controlled access highway or is a part of the National System of Interstate and Defense Highways. Farm equipment includes a vehicle that is designed exclusively to transport compressed seed cotton from a farm to a gin and has a self-loading bed. All such combines Combines or equipment which exceed 10 feet in width may be so-operated only if they meet all of under the following conditions:conditions listed in this subsection. A violation of one or more of these conditions does not constitute negligence per se.

- (1) ~~Said-The~~ equipment may only be so-operated during daylight hours.
- (2) ~~Said-The~~ equipment must display a red flag on front and rear, ~~saidrear~~ ends. The flags shall not be smaller than three feet wide and four feet long and belong. The flags shall be attached to a stick, pole, staff, etc., not less than four feet long and they shall be so-attached to said-the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet.
- (3) Equipment covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags referred to in subdivision (2) of this subsection are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.
- (4) Every ~~such~~ piece of equipment so operated shall operate to the right of the center line when meeting traffic coming from the opposite direction and at all other times when possible and practical.
- (5) ~~Violation of this section shall not constitute negligence per se.~~
- (6) When ~~said-the~~ equipment is causing a delay in traffic, the operator of ~~said-the~~ equipment shall move the equipment off the paved portion of the highway at the nearest practical location until the vehicles following ~~said-the~~ equipment have passed.
- (7) The equipment shall be operated in the designed transport position that minimizes equipment width. No removal of equipment or appurtenances is required under this subdivision."

SECTION 7. G.S. 20-118(c)(12) reads as rewritten:

"(12) Subsections (b) and (e) of this section do not apply to a vehicle that (i) ~~is hauling agricultural crops from the farm where they were grown to first market, (ii) is within 35 miles of that farm, (iii) does not operate on an interstate highway or posted bridge while hauling the crops, and meets one of the following descriptions:~~meets all of the conditions set out below:

- a. ~~Is a five axle combination with a gross weight of no more than 90,000 pounds, a single axle weight of no more than 22,000~~

~~pounds, a tandem axle weight of no more than 42,000 pounds, and a length of at least 51 feet between the first and last axles of the combination. Is hauling agricultural crops from the farm where the crop is grown to the closest market.~~

- b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
- b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
- c. ~~Is a four-axle combination with a gross weight that does not exceed the limit set in subdivision (b)(3) of this section. Does not exceed~~ a single-axle weight of ~~no more than~~ 22,000 pounds, ~~and~~ a tandem-axle weight of ~~no more than~~ 42,000 ~~pounds.~~ pounds, or a gross weight of 90,000 pounds."

SECTION 8. G.S. 20-118(k) reads as rewritten:

"(k) From September 1 through March 1 of each year, a vehicle which is equipped with a self-loading bed and which is designed and used exclusively to transport compressed seed cotton from the farm to a cotton gin may operate on the highways of the State, except interstate highways, with a tandem-axle weight not exceeding ~~44,000~~ 50,000 pounds. Such vehicles shall be exempt from light-traffic road limitations only from point of origin on the light-traffic road to the nearest State-maintained road which is not posted to prohibit the transportation of statutory load limits. This exemption does not apply to restricted, posted bridge structures."

SECTION 9. 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 from any site; is hauling raw logs to first market; 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, except as provided by subdivision (c)(5) of this section, 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 10. This act becomes effective September 1, 2008.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 6:45 p.m. on the 17th day of August, 2008.

Session Law 2008-222

S.B. 1339

AN ACT TO REQUIRE SUPPLIERS THAT IMPORT GASOLINE FOR SALE IN THIS STATE TO OFFER GASOLINE FOR SALE TO A DISTRIBUTOR OR

RETAILER THAT IS NOT PREBLENDED WITH FUEL ALCOHOL AND THAT IS SUITABLE FOR SUBSEQUENT BLENDING WITH FUEL ALCOHOL AND TO PROVIDE THAT CONTRACT PROVISIONS THAT RESTRICT OR PREVENT DISTRIBUTORS OR RETAILERS FROM BLENDING GASOLINE AND FUEL ALCOHOL ARE VOID.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 75 of the General Statutes is amended by adding a new section to read:

"§ G.S. 75-90. Availability of gasoline suitable for blending with fuel alcohol; blender of record.

(a) The following definitions apply in this section:

- (1) Blender. – Defined in G.S. 105-449.60.
- (2) Distributor. – Defined in G.S. 105-449.60.
- (3) Fuel Alcohol. – Defined in G.S. 105-449.60.
- (4) Gasoline. – Defined in G.S. 105-449.60(15)a.
- (5) Retailer. – Defined in G.S. 105-449.60.
- (6) Supplier. – Defined in G.S. 105-449.60.

(b) A supplier that imports gasoline into the State shall offer gasoline for sale to a distributor or retailer that is not preblended with fuel alcohol and that is suitable for subsequent blending with fuel alcohol.

(c) The General Assembly finds that use of blended fuels reduces dependence on imported oil and is therefore in the public interest. The General Assembly further finds that gasoline may be blended with fuel alcohol below the terminal rack by distributors and retailers as well as above the terminal rack by suppliers and that there is no reason to restrict or prevent blending by suppliers, distributors, or retailers. Therefore, any provision of any contract that would restrict or prevent a distributor or retailer from blending gasoline with fuel alcohol or from qualifying for any federal or State tax credit due to blenders is contrary to public policy and is void. This subsection does not impair the obligation of existing contracts, but does apply if such contract is modified, amended, or renewed."

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

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Became law upon approval of the Governor at 6:50 p.m. on the 17th day of August, 2008.

Session Law 2008-223

S.B. 942

AN ACT TO PROHIBIT LOCAL GOVERNMENTS FROM ENACTING ORDINANCES THAT WOULD RESTRICT DISTRIBUTION OF NEWSPAPERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-175(d) reads as rewritten:

"(d) Local governments may enact ordinances restricting or prohibiting a person from standing on any street, highway, or right-of-way excluding sidewalks while soliciting, or attempting to solicit, any employment, business, or contributions from the driver or occupants of any vehicle. No local government may enact or enforce any

ordinance that prohibits engaging in the distribution of newspapers on the non-traveled portion of any street or highway except when those distribution activities impede the normal movement of traffic on the street or highway. This subsection does not permit additional restrictions or prohibitions on the activities of licensees, employees, or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys except as provided in subsection (e) of this section."

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, 2008.

Became law upon approval of the Governor at 7:00 p.m. on the 17th day of August, 2008.

Session Law 2008-224

S.B. 1314

AN ACT AMENDING THE LAWS UNDER THE NORTH CAROLINA MASSAGE AND BODYWORK THERAPY PRACTICE ACT TO EXPAND THE EXISTING LAWS REGULATING MASSAGE AND BODYWORK THERAPY SCHOOLS; TO AUTHORIZE THE BOARD TO ESTABLISH FEES FOR LICENSING MASSAGE AND BODYWORK THERAPY SCHOOLS; AND TO ALLOW THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY OF APPLICANTS FOR LICENSURE TO PRACTICE MASSAGE AND BODYWORK THERAPY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-621 reads as rewritten:

"§ 90-621. **Declaration of purpose.**

~~The General Assembly recognizes that the improper practice of massage and bodywork therapy is potentially harmful to the public. Mandatory licensure of those engaged in the practice of massage and bodywork therapy is necessary to ensure minimum standards of competency and to protect the public health, safety, and welfare.~~The purpose of this Article is to ensure the protection of the health, safety, and welfare of the citizens of this State receiving massage and bodywork therapy services. This purpose is achieved by establishing education and testing standards that ensure competency in the practice of massage and bodywork therapy. Mandatory licensure of those engaged in the practice of massage and bodywork therapy assures the public that each individual has satisfactorily met the standards of the profession and continues to meet both the ethical and competency goals of the profession."

SECTION 2. G.S. 90-622 reads as rewritten:

"§ 90-622. **Definitions.**

The following definitions apply in this Article:

- (1) Accreditation. – Status granted to a postsecondary institution of higher learning that has met standards set by an accrediting agency recognized by the Secretary of the United States Department of Education. The accreditation for massage and bodywork schools may be institutional or programmatic in nature.
- (4)(1a) Board. – The North Carolina Board of Massage and Bodywork Therapy.

- (2) Board-approved school. – Any massage and bodywork therapy school or training program in this State or another state that is not otherwise exempt from Board approval, that has met the criteria established by the Board, standards set forth in this Article, and been granted approval by the Board.
- (2a) Criminal history record check. – A report resulting from a request made by the Board to the North Carolina Department of Justice for a history of conviction of a crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice massage and bodywork therapy.
- (3) Massage and bodywork therapy. – Systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:
- a. Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.
 - b. Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.
 - c. The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.
- (3a) Massage and bodywork therapy school. – Any educational institution that conducts a training program or curriculum for a tuition charge, which is intended to teach adults the knowledge, skills, and abilities necessary for the safe, effective, and ethical practice of massage and bodywork therapy.
- (4) Massage and bodywork therapist. – A person licensed under this Article.
- (5) Practice of massage and bodywork therapy. – The application of massage and bodywork therapy to any person for a fee or other consideration. ~~"Practice of massage and bodywork therapy" does not include the diagnosis of illness or disease, medical procedures, chiropractic adjustive procedures, electrical stimulation, ultrasound, prescription of medicines, or the use of modalities for which a license to practice medicine, chiropractic, nursing, physical therapy, occupational therapy, acupuncture, or podiatry is required by law."~~

SECTION 3. G.S. 90-623 is amended by adding a new subsection to read:

"(d) The practice of massage and bodywork therapy shall not include any of the following:

- (1) The diagnosis of illness or disease.
- (2) Medical procedures, chiropractic adjustive procedures, electrical stimulation, ultrasound, or prescription of medicines.
- (3) The use of modalities for which a license to practice medicine, chiropractic, nursing, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.
- (4) Sexual activity, which shall mean any direct or indirect physical contact, by any person or between persons, which is intended to erotically stimulate either person, or which is likely to cause such stimulation and includes sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse. As used in this subdivision,

masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. Sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation has occurred."

SECTION 4. G.S. 90-625 reads as rewritten:

"§ 90-625. North Carolina Board of Massage and Bodywork Therapy.

(a) The North Carolina Board of Massage and Bodywork Therapy is created. The Board shall consist of seven members who are residents of this State and are as follows:

- (1) Five members shall be massage and bodywork therapists who have been licensed under this Article and have been in the practice of massage and bodywork therapy for at least five of the last seven years prior to their serving on the Board. ~~The appointments may be made from lists provided by the North Carolina Therapeutic Massage and Bodywork Task Force.~~ Consideration shall be given to geographical distribution, practice setting, clinical specialty, involvement in massage and bodywork therapy education, and other factors that will promote diversity of the profession on the Board. Two of the five members shall be appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, two shall be appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the Governor.
- (2) One member shall be a physician licensed pursuant to Article 1 of Chapter 90 of the General ~~Statutes~~. Statutes or a person once licensed as a physician whose license lapsed while the person was in good standing with the profession and eligible for licensure. The appointment shall be made by the Governor and may be made from a list provided by the North Carolina Medical Society.
- (3) One member shall be a member of the general public who shall not be licensed under Chapter 90 of the General Statutes or the spouse of a person who is so licensed, or have any financial interest, directly or indirectly, in the profession regulated under this Article. The appointment shall be made by the Governor.

(b) Legislative appointments shall be made in accordance with G.S. 120-121. A vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

(c) Each member of the Board shall serve for a term of three years, ending on June 30 of the last year of the term. A member shall not be appointed to serve more than two consecutive terms.

(d) The Board shall elect annually a chair and other officers as it deems necessary. The Board shall meet as often as necessary for the conduct of business but no less than twice a year. The Board shall establish procedures governing the calling, holding, and conducting of regular and special meetings. A majority of the Board shall constitute a quorum.

(e) Each member of the Board may receive per diem and reimbursement for travel and subsistence as set forth in G.S. 93B-5.

(f) Members may be removed by the official who appointed the member for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee or other professional credential shall be disqualified from participating in the official business of the Board until the charges

have been ~~resolved~~ resolved by a determination that the misconduct does not rise to the level of disciplinary action resulting in the suspension or revocation of the member's professional credential."

SECTION 5. The current terms of the two members of the Board appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate are each extended to a total period of five years, ending on June 30 of the last year of each extended term. Upon the completion of these five-year terms, all future members of the Board shall serve three-year terms, as provided in G.S. 90-625(c).

SECTION 6. G.S. 90-626 is amended by adding a new subdivision to read:
"§ 90-626. Powers and duties.

The Board shall have the following powers and duties:

...

- (5a) Approve and regulate massage and bodywork schools, not otherwise exempt from the requirements of Board approval, by formulating the criteria and standards for approval of massage and bodywork schools, investigating massage and bodywork schools applying for approval, issuing approvals to massage and bodywork schools that meet the standards established by the Board, providing periodic inspections of approved massage and bodywork schools, and requiring periodic reports of approved massage and bodywork schools.

..."

SECTION 7. G.S. 90-626(8) reads as rewritten:
"§ 90-626. Powers and duties.

The Board shall have the following powers and duties:

...

- (8) Establish Pursuant to the maximum amounts set by this Article and other specific authority authorizing fees, establish reasonable fees for applications for examination, certificates of licensure and renewal, approval of massage and bodywork therapy schools, and other services provided by the Board.

..."

SECTION 8. G.S. 90-628(b) reads as rewritten:

"(b) The Board may impose the following fees up to the amounts listed below:

- (1) Application for ~~examination~~ license \$200.00 \$20.00
- (2) ~~License~~ Initial license fee 150.00
- (3) License renewal 100.00
- (4) Late renewal penalty 75.00
- (5) License by reciprocity 50.00
- (6)(5) Duplicate license 25.00
- (7) Provisional license 150.00."

SECTION 9. G.S. 90-629 reads as rewritten:
"§ 90-629. Requirements for licensure.

Upon application to the Board and the payment of the required fees, an applicant may be licensed as a massage and bodywork therapist if the applicant meets all of the following qualifications:

- (1) Has obtained a high school diploma or equivalent.
- (2) Is 18 years of age or older.
- (3) Is of good moral character as determined by the Board.

- (4) ~~Has successfully completed a course of study~~training program consisting of a minimum of 500 ~~classroom~~ in-class hours of supervised instruction at a Board-approved school.
- (5) ~~Has successfully passed an a competency assessment examination administered by a certifying agency that has been approved by the National Commission of Certifying Agencies (NCCA) and is in good standing with such agency or has successfully passed an examination administered or approved by the Board.~~that meets generally accepted psychometric principles and standards and is approved by the Board.
- (6) Has submitted fingerprint cards in a form acceptable to the Board at the time the license application is filed and consented to a criminal history record check by the North Carolina Department of Justice."

SECTION 10. Article 36 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-629.1. Criminal history record checks of applicants for licensure.

(a) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(b) The cost of the criminal history record check and the fingerprinting shall be borne by the applicant.

(c) If an applicant's criminal history record check reveals one or more criminal convictions, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

If, after reviewing the factors, the Board determines that any of the grounds set forth in the subdivisions of G.S. 90-633(a) exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure

to an applicant based on information provided in the applicant's criminal history record check."

SECTION 11. G.S. 90-630 is repealed.

SECTION 12. Article 36 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-630.1. Licensure by endorsement.

(a) The Board may issue a license to a practitioner who is duly licensed, certified, or registered as a massage and bodywork therapist under the laws of another jurisdiction. The practitioner shall be eligible for licensure by endorsement if all of the following qualifications are met:

- (1) The applicant meets the requirements of G.S. 90-629(1), (2), (3), and (6) and submits the required application and fees to the Board.
- (2) The applicant currently holds a valid license, certificate, or registration as a massage and bodywork therapist in another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration as a massage and bodywork therapist are substantially equivalent to or exceed the requirements for licensure under this Article.
- (3) The applicant is currently a practitioner in good standing, with no disciplinary proceeding or unresolved complaint pending in any jurisdiction at the time a license is to be issued in this State.
- (4) The applicant passes a jurisprudence examination administered by the Board regarding laws and rules adopted by the Board for licensure under this Article.
- (5) The applicant, including applicants credentialed in a foreign country, demonstrates satisfactory proof of proficiency in the English language.

(b) The Board may issue a license by endorsement to a practitioner from another state that does not license, certify, or register massage and bodywork therapists if all of the following qualifications are met:

- (1) The applicant meets the requirements of G.S. 90-629(1), (2), (3), and (6) and submits the required application and fees to the Board.
- (2) The applicant has passed a competency assessment examination that meets generally accepted psychometric principles and standards and is approved by the Board.
- (3) The applicant has graduated from a massage and bodywork therapy school that: (i) offers a curriculum that meets or is substantially equivalent to the standards set forth in the Board's criteria for school approval; and (ii) is licensed or approved by the regulatory authority for schools of massage and bodywork therapy in the state, province, territory, or country in which it operates or is exempt by law.
- (4) The applicant is currently a practitioner in good standing, with no disciplinary proceeding or unresolved complaint pending in any jurisdiction at the time a license is to be issued in this State.
- (5) The applicant passes a jurisprudence examination administered by the Board regarding laws and rules adopted by the Board for licensure under this Article.
- (6) The applicant, including an applicant credentialed in a foreign country, demonstrates satisfactory proof of proficiency in the English language.
- (7) Notwithstanding the requirements of subdivisions (2) and (3) of this subsection, the applicant has other credentials, to be reviewed by the

Board on a case-by-case basis, that are deemed by the Board to be substantially equivalent to the requirements in subdivisions (2) and (3) of this subsection.

(c) The Board shall maintain a list of jurisdictions whose regulatory standards for the practice of massage and bodywork therapy have been determined by the Board to be substantially equivalent to or to exceed the requirements for licensure under this Article."

SECTION 13. G.S. 90-631(a) reads as rewritten:

"(a) The Board shall establish rules for the approval of massage and bodywork therapy schools. These rules shall include:

- (1) Basic curriculum standards that ensure graduates have the education and skills necessary to carry out the safe and effective practice of massage and bodywork therapy.
- (2) Standards for faculty and learning resources.
- (3) Requirements for reporting changes in instructional staff and curriculum.
- (4) A description of the process used by the Board to approve a school.

Any school that offers a training program in massage and bodywork ~~therapy may make therapy,~~ not otherwise exempt from the requirements of Board approval, shall submit an application for approval to the Board. If a massage and bodywork therapy school offers training programs at more than one physical location, each location shall constitute a separate massage and bodywork therapy school. The Board shall grant approval to ~~schools,~~ a school, whether in this State or another state, that ~~meet~~ meets the criteria established by the Board. The Board shall maintain a list of approved schools and a list of community college programs operating pursuant to subsection (b) of this section."

SECTION 14. G.S. 90-631 is amended by adding a new subsection to read:

"(a1) The Board shall have general supervision over massage and bodywork therapy schools, not otherwise exempt from the requirements of Board approval, in this State for the purpose of protecting the health, safety, and welfare of the public by requiring that massage and bodywork therapy schools carry out their advertised promises and contracts made with their students and patrons and by requiring that approved massage and bodywork therapy schools maintain:

- (1) Adequate, safe, and sanitary facilities.
- (2) Sufficient and qualified instructional and administrative staff.
- (3) Satisfactory programs of operation and instructions."

SECTION 15. Article 36 of Chapter 90 of the General Statutes is amended by adding the following new sections to read:

"§ 90-631.1. Massage and bodywork therapy school approval required.

Unless exempt from the Board approval process, no individual, association, partnership, corporation, or other entity shall open, operate, or advertise a massage and bodywork therapy school in this State unless it has first complied with all the requirements of this Article and rules adopted by the Board and has been approved by the Board.

"§ 90-631.2. Authority to establish fees for massage and bodywork therapy school approval.

(a) The Board shall establish a schedule of fees for approvals and renewals granted and for inspections performed pursuant to this Article. The fees collected under this section are intended to cover the administrative costs of the approval programs. No

fee for application approval or renewal of approval shall be refunded in the event the application is rejected or the approval suspended or revoked.

(b) Fees for Board approval of schools are as follows:

(1)	<u>Request for Application Approval Package</u>	<u>\$20.00</u>
(2)	<u>Initial application for approval (one program)</u>	<u>2,000.00</u>
(3)	<u>Initial application for approval of additional programs (same location)</u>	<u>750.00</u>
(4)	<u>Inspection for initial approval or renewal (one program)</u>	<u>1,500.00</u>
(5)	<u>Inspection for initial approval or renewal of additional programs (same location)</u>	<u>500.00</u>
(6)	<u>Renewal of approval (one program)</u>	<u>1,000.00</u>
(7)	<u>Renewal of approval (each additional program)</u>	<u>750.00</u>

(c) Renewal inspections shall not occur more frequently than every three years, unless necessary.

(d) A school that is required to have more than one inspection in a fiscal year in order to investigate or verify areas of noncompliance with the standards for school approval shall pay a fee of one thousand five hundred dollars (\$1,500) for each additional inspection.

"§ 90-631.3. Grounds for suspension, revocation, or refusal of massage and bodywork therapy school approval; notice and hearing; judicial review.

(a) The Board may deny, suspend, revoke, or refuse to approve a massage and bodywork therapy school for any of the following reasons:

- (1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain approval of a massage and bodywork therapy school.
- (2) Engaging in any act or practice in violation of any of the provisions of this Article or of any of the rules adopted by the Board, or aiding, abetting, or assisting any other person in the violation of the provisions of this Article or rules adopted by the Board.
- (3) Failure to require that its students must complete the minimum standards in order to graduate.
- (4) Operating a massage and bodywork therapy school without approval from this Board.
- (5) Engaging in conduct that could result in harm or injury to the public.
- (6) The employment of fraud, deceit, or misrepresentation when communicating with the general public, health care professionals, or other business professionals.
- (7) Falsely holding out a massage and bodywork therapy school as approved by this Board.
- (8) Failure to allow authorized representatives of the Board to conduct inspections of the massage and bodywork therapy school or refusing to make available to the Board, following written notice to the massage and bodywork therapy school, the requested information pertaining to the requirements for approval set forth in this Article.
- (9) Failure to notify the Board in writing within 30 days of any notification it receives from its accrediting agency or the United States Department of Education Office of Postsecondary Education of a show cause action, probation action, or denial of accreditation.

(10) The applicant for or holder of massage and bodywork therapy school approval has pleaded guilty, entered a plea of nolo contendere, or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.

(b) A refusal to issue, refusal to renew, or suspension or revocation of massage and bodywork therapy school approval under this section shall be made in accordance with Chapter 150B of the General Statutes."

SECTION 16. G.S. 90-632 reads as rewritten:

"§ 90-632. License renewal and continuing education.

(a) The license to practice under this Article shall be renewed every two years. When renewing a license, each licensee shall submit to the Board evidence of the successful completion of at least 25 hours of study, as approved by the Board, during the immediately preceding two years, in the practice of massage and bodywork therapy.

(b) The continuing education requirement for the initial license renewal is as follows:

(1) If the licensure period is two years or more, each licensee shall submit to the Board evidence of the successful completion of at least 24 hours of study, as approved by the Board, since the initial licensure application date in the practice of massage and bodywork therapy.

(2) If the licensure period is less than two years, but more than one year, each licensee shall submit to the Board evidence of the successful completion of at least 12 hours of study, as approved by the Board, since the initial licensure application date in the practice of massage and bodywork therapy.

(c) For subsequent license renewals, each licensee shall submit to the Board evidence of the successful completion of at least 24 hours of study, as approved by the Board, since the previous licensure renewal submission date in the practice of massage and bodywork therapy."

SECTION 17. G.S. 90-633 reads as rewritten:

"§ 90-633. Disciplinary action.

(a) The Board may deny, suspend, revoke, or refuse to license a massage and bodywork therapist or applicant for any of the following:

(1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.

(2) The use of drugs or intoxicating liquors to an extent that affects professional competency.

(3) Conviction of an offense under any municipal, State, or federal narcotic or controlled substance law until proof of rehabilitation can be established.

(4) Conviction of a felony or other public offense involving moral turpitude until proof of rehabilitation can be established.

(5) An adjudication of insanity or incompetency until proof of recovery from the condition can be established.

(6) Engaging in any act or practice in violation of any of the provisions of this Article or of any of the rules adopted by the Board, or aiding, abetting, or assisting any other person in the violation of these provisions or rules. For purposes of this subdivision, the phrase 'aiding, abetting, or assisting any other person' does not include acts intended to inform the individual who is not in compliance with this

Article of the steps necessary to comply with this Article or any rules adopted by the Board.

- (7) The commission of an act of malpractice, gross negligence, or incompetency.
- (8) Practice as a licensee under this Article without a valid certificate or renewal.
- (9) Engaging in conduct that could result in harm or injury to the public.
- (10) The employment of fraud, deceit, or misrepresentation when communicating with the general public, health care professionals, or other business professionals.
- (11) Falsely holding out himself or herself as licensed or certified in any discipline of massage and bodywork therapy without successfully completing training approved by the Board in that specialty.
- (12) The application of systems of activity by a massage and bodywork therapist during the course of therapy with the intent of providing sexual stimulation or otherwise pursuing sexual contact.

(b) The Board may reinstate a revoked license, revoke censure or other judgment, or remove other licensure restrictions if the Board finds that the reasons for revocation, censure, or other judgment or other licensure restrictions no longer exist and the massage and bodywork therapist or applicant can reasonably be expected to safely and properly practice as a massage and bodywork therapist."

SECTION 18. G.S. 90-634 reads as rewritten:

"§ 90-634. **Enforcement; injunctive relief.**

(a) It is unlawful for a person not licensed or exempted under this Article to engage in any of the following:

- (1) Practice of massage and bodywork therapy.
- (2) Advertise, represent, or hold out himself or herself to others to be a massage and bodywork therapist.
- (3) Use any title descriptive of any branch of massage and bodywork therapy, as provided in G.S. 90-623, to describe his or her practice.

(b) A person who violates subsection (a) of this section shall be guilty of a Class 1 misdemeanor.

(b1) Unless exempt from the approval process, it is unlawful for an individual, association, partnership, corporation, or other entity to open, operate, or advertise a massage and bodywork therapy school without first having obtained the approval required by G.S. 90-637.1.

(b2) An individual, association, partnership, corporation, or other entity that violates subsection (b1) of this section shall be guilty of a Class 3 misdemeanor.

(c) The Board may make application to superior court for an order enjoining a violation of this Article. Upon a showing by the Board that a ~~person~~ person, association, partnership, corporation, or other entity has violated or is about to violate this Article, the court may grant an injunction, restraining order, or take other appropriate action."

SECTION 19. G.S. 90-634.1 reads as rewritten:

"§ 90-634.1. **Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the violation of any rules adopted by the Board. The continuation of the same act for which the penalty is imposed shall not be the basis for an additional penalty unless the penalty is imposed against the same party who has repeated the same act for

which the discipline has previously been imposed. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board shall consider the following factors:

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful and malicious.
- (4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

~~(d) Costs. – The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board.~~ Transcriptions Costs. – The Board may assess the costs of transcriptions of a disciplinary hearing held by the Board or the Office of Administrative Hearings to include the recording of the hearing by a court reporter and transcription of the proceeding against a person found to be in violation of this Article or rules adopted by the Board.

SECTION 20. Part 2 of Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

§ 114-19.11B. Criminal record checks of applicants for licensure as massage and bodywork therapists.

The Department of Justice may provide to the North Carolina Board of Massage and Bodywork Therapy from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 36 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

SECTION 21. Section 18 of this act becomes effective December 1, 2008, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions. The remainder of this act is effective when it becomes law and applies to the actions of therapists and schools on or after that date, to massage and bodywork therapist applications for licensure, and to massage and bodywork therapy school applications for Board approval submitted to the Board on or after that date.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Became law upon approval of the Governor at 7:03 p.m. on the 17th day of August, 2008.

Session Law 2008-225

S.B. 1697

AN ACT TO PROVIDE FOR THE ENFORCEMENT OF TOLLS ON TURNPIKE PROJECTS OF THE NORTH CAROLINA TURNPIKE AUTHORITY, TO MODIFY LAWS APPLICABLE TO THE NORTH CAROLINA TURNPIKE AUTHORITY, AND TO CLARIFY THE AUTHORIZATION MADE IN A PRIOR LAW TO TOLL AN EXISTING SEGMENT OF N.C. 540.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6H of Chapter 136 of the General Statutes is amended by designating the current sections in that Article as Part 1 with a heading that reads as follows:

"Part 1. Turnpike Authority and Toll Projects."

SECTION 2. Article 6H of Chapter 136 of the General Statutes, as amended by Section 1 of this act, is amended by adding a new Part to read:

"Part 2. Collection of Tolls on Turnpike Projects."

"§ 136-89.210. Definitions.

The definitions in G.S. 136-89.181 and the following definitions apply in this Article:

- (1) Reserved.
- (2) Open road toll. – A toll payable under an open road tolling system.
- (3) Open road tolling system. – A system of collecting a toll for the use of a highway that does not provide a way to pay the toll in cash while traveling on the highway.

"§ 136-89.211. Tolls for use of Turnpike project.

In exercising its authority under G.S. 136-89.183 to set tolls for the use of a Turnpike project, the Authority may not do any of the following:

- (1) Set open road tolls that vary for the same class of motor vehicle depending on the method by which the Authority identifies a motor vehicle that drives on the Turnpike project. This does not preclude the Authority from allowing a discount of up to thirty-five percent (35%) of the amount of a toll for a motor vehicle equipped with an electronic toll collection transponder.
- (2) Exempt a motor vehicle that is not a law enforcement vehicle, an emergency fire or rescue vehicle, or an emergency medical services vehicle from the requirement of paying a toll for the use of a Turnpike project.

"§ 136-89.212. Payment of toll required for use of Turnpike project.

A motor vehicle that is driven on a Turnpike project is subject to a toll imposed by the Authority for the use of the project. If the toll is an open road toll, the person who is the registered owner of the motor vehicle is liable for payment of the toll unless the registered owner establishes that the motor vehicle was in the care, custody, and control of another person when it was driven on the Turnpike project.

A person establishes that a motor vehicle was in the care, custody, and control of another person when it was driven on a Turnpike project by submitting to the Authority a sworn affidavit stating one of the following:

- (1) The name and address of the person who had the care, custody, and control of the motor vehicle when it was driven. If the motor vehicle was leased or rented under a long-term lease or rental, as defined in G.S. 105-187.1, the affidavit must be supported by a copy of the lease or rental agreement or other written evidence of the agreement.
- (2) The motor vehicle was stolen. The affidavit must be supported by an insurance or police report concerning the theft or other written evidence of the theft.
- (3) The person transferred the motor vehicle to another person by sale or otherwise before it was driven on the Turnpike project. The affidavit must be supported by insurance information, a copy of the certificate of title, or other evidence of the transfer.

"§ 136-89.213. Administration of tolls and requirements for open road tolls.

(a) Administration. – The Authority is responsible for collecting tolls on Turnpike projects. In exercising its authority under G.S. 136-89.183 to perform or procure services required by the Authority, the Authority may contract with one or more providers to perform part or all of the collection functions and may enter into agreements to exchange information that identifies motor vehicles and their owners with one or more of the following entities: the Division of Motor Vehicles of the Department of Transportation, another state, another toll operator, or a toll collection-related organization. Identifying information obtained by the Authority through an agreement is not a public record and is subject to the disclosure limitations in 18 U.S.C. § 2721, the federal Driver's Privacy Protection Act.

(b) Open Road Toll. – If a Turnpike project uses an open road tolling system, the Authority must operate a facility that is in the immediate vicinity of the Turnpike project and that accepts cash payment of the toll and must place signs on the Turnpike project that give drivers the following information:

- (1) Notice that the driver is approaching a highway for which a toll is required. Signs providing this information must be placed before the toll is incurred.
- (2) The methods by which the toll may be paid.
- (3) Directions to the nearby facility that accepts cash payment of the toll.

"§ 136-89.214. Bill for unpaid open road toll.

(a) Bill. – If a motor vehicle travels on a Turnpike project that uses an open road tolling system and a toll for traveling on the project is not paid within 15 days after the travel occurs, the Authority must send a bill by first-class mail to the registered owner of the motor vehicle for the amount of the unpaid toll. The Authority must send the bill within 90 days after the travel occurs. If a bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for unpaid open road tolls that is no shorter than 15 days. A bill for a billing period must include all unpaid tolls incurred by the same person during the billing period.

(b) Information on Bill. – A bill sent under this section must include all of the following information:

- (1) The name and address of the registered owner of the motor vehicle that traveled on the Turnpike project.
- (2) The date the travel occurred, the approximate time the travel occurred, and each segment of the Turnpike project on which the travel occurred.

- (3) An image of the registration plate of the motor vehicle, if the Authority captured an electronic image of the motor vehicle when it traveled on the Turnpike project.
- (4) The amount of the toll due and an explanation of how payment may be made.
- (5) The date by which the toll must be paid to avoid the imposition of a processing fee under G.S. 136-89.215 and the amount of the processing fee.
- (6) A statement that a vehicle owner who has unpaid tolls is subject to a civil penalty and may not renew the vehicle's registration until the tolls and civil penalties are paid.
- (7) A clear and concise explanation of how to contest liability for the toll.

"§ 136-89.215. Required action upon receiving bill for open road toll and processing fee for unpaid toll.

(a) Action Required. – A person who receives a bill for an unpaid open road toll must take one of the following actions within 30 days after receiving the bill:

- (1) Pay the bill.
- (2) Send a written request to the Authority for a review of the toll.

(b) Fee. – If a person does not take one of the actions required under subsection (a) of this section within the required time, the Authority may add a processing fee to the amount the person owes. The processing fee may not exceed six dollars (\$6.00). A person may not be charged more than forty-eight dollars (\$48.00) in processing fees in a calendar year.

The Authority must set the processing fee at an amount that does not exceed the costs of identifying the owner of a motor vehicle that is subject to an unpaid toll and billing the owner for the unpaid toll. The fee is a receipt of the Authority and must be applied to these costs.

"§ 136-89.216. Civil penalty for failure to pay open road toll.

(a) Penalty. – A person who receives one or more bills for unpaid open road tolls during the first or second six-month period in a year and who has not paid the amount due on those bills within 30 days after the end of the six-month period is subject to a civil penalty of twenty-five dollars (\$25.00). The period from January 1 through June 30 of a year is the first six-month period in a year, and the period from July 1 through December 31 is the second six-month period in a year. Only one penalty may be assessed for a six-month period.

(b) Payment. – The Authority must send a notice by first-class mail to a person who is assessed a civil penalty under this section. A person who is assessed a civil penalty must pay the unpaid toll for which the civil penalty was imposed, the amount of any processing fee due, and the civil penalty within 30 days after receiving the notice.

(c) Penalty Proceeds. – A civil penalty imposed under this section is payable to the Authority or, if collected when a vehicle registration is renewed, to the Division of Motor Vehicles of the Department of Transportation. The clear proceeds of a civil penalty imposed under this section must be credited to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1. The guidelines used by the Office of State Budget and Management to determine an agency's actual costs of collecting a civil penalty and the clear proceeds of the civil penalty apply to the determination of the clear proceeds of a civil penalty imposed under this section.

"§ 136-89.217. Vehicle registration renewal blocked for unpaid open road toll.

(a) Registration Block. – Failure of a person to pay an open road toll billed to the person under G.S. 136-89.214, any processing fee added under G.S. 136-89.215, and any civil penalty imposed under G.S. 136-89.216 is grounds under G.S. 20-54 to withhold the registration renewal of a motor vehicle registered in that person's name. The Authority must notify the Commissioner of Motor Vehicles of a person who owes a toll, a processing fee, or a civil penalty. When notified, the Commissioner of Motor Vehicles must withhold the registration renewal of any motor vehicle registered in that person's name.

(b) Collection by DMV. – A person whose motor vehicle registration renewal is blocked under this section may pay to the Division of Motor Vehicles of the Department of Transportation the amount owed for unpaid tolls, processing fees, and civil penalties due under this Part when renewing the vehicle registration. The Division must remit to the Authority the amount of tolls, fees, and civil penalties collected. The Division's costs of collecting tolls, fees, and civil penalties are considered a necessary expense of the operation of the Authority, and the Authority must reimburse the Division for these costs.

"§ 136-89.218. Procedures for contesting liability for unpaid open road toll.

(a) Informal Review. – A person who receives a bill for an unpaid open road toll and who disputes liability for the toll may contest the toll by sending to the Authority a request for review of the toll. The person may include a sworn affidavit described in G.S. 136-89.212 that establishes that someone else had the care, custody, and control of the motor vehicle subject to the toll when the toll was incurred. The person must send the request for review to the Authority within 30 days after receiving the bill for the toll. A person who does not send a request for review to the Authority within this time limit waives the right to a review. If a person sends a timely request for review to the Authority, the Authority may not collect the disputed toll and any processing fee added to the bill for the toll until the conclusion of the review process in this section.

(b) Administrative Hearing. – If the Authority conducts an informal review under subsection (a) of this section and determines that the person who requested the review is liable for the toll, the Authority must send the person a notice informing the person of the Authority's determination. The person may contest this determination by filing a petition for a contested case hearing at the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes.

(c) Judicial Review. – Article 4 of Chapter 150B of the General Statutes governs judicial review of a final decision made in a contested case authorized under subsection (b) of this section."

SECTION 3. G.S. 136-89.181 reads as rewritten:

"§ 136-89.181. Definitions.

The following definitions apply to this Article:

- (1) "Department" ~~means the Department.~~ – The North Carolina Department of Transportation.
- (2) "Turnpike Authority" ~~means the Turnpike Authority.~~ – The public agency created by this Article.
- (3) "Authority Board" ~~means the Authority Board.~~ – The governing board of the Turnpike Authority.
- (4) "Turnpike Project" ~~means a Turnpike project.~~ – Either of the following:

- a. A road, bridge, or tunnel project planned, or planned and constructed, in accordance with the provisions of this Article.
 - b. A segment of the State highway system the Authority Board converts to a tolled highway pursuant to the authorization in G.S. 136-89.187.
- (5) ~~"Turnpike System" means collectively all Turnpike Projects developed in accordance with the provisions of this Article. Turnpike system. – All Turnpike projects."~~

SECTION 4. G.S. 136-89.183(a) reads as rewritten:

"(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

- (1) The powers of a corporate body, including the power to sue and be sued, to make contracts, to adopt and use a common seal, and to alter the adopted seal as needed.
- (2) To study, plan, develop, and undertake preliminary design work on up to nine Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:
 - a. Triangle Parkway Expressway, including segments also known as N.C. 540, Triangle Parkway, and Western Wake Freeway in Wake and Durham Counties.
 - b. Gaston East-West Connector, also known as the Garden Parkway.
 - c. Monroe Connector/Connector/Bypass.
 - d. Cape Fear Skyway.
 - e. A bridge of more than two miles in length going from the mainland to a peninsula bordering the State of ~~Virginia.~~Virginia, pursuant to G.S. 136-89.183A.
 - f. ~~I-540 in Wake and Durham Counties.~~

Any other project proposed by the Authority in addition to the projects listed in this subdivision must be approved by the General Assembly prior to construction.

A Turnpike Project selected for construction by the Turnpike Authority shall be included in any applicable locally adopted comprehensive transportation plans and shall be shown in the current State Transportation Improvement Plan prior to the letting of a contract for the Turnpike Project.

- (3) Repealed by Session Laws 2005-275, s. 2, effective August 12, 2005.
- (4) To rent, lease, purchase, acquire, own, encumber, dispose of, or mortgage real or personal property, including the power to acquire property by eminent domain pursuant to G.S. 136-89.184.
- (5) To fix, revise, charge, and collect tolls and fees for the use of the Turnpike Projects. Prior to the effective date of any toll or fee for use of a Turnpike Facility, the Authority shall submit a description of the proposed toll or fee to the Board of Transportation, the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations for review.
- (6) To issue bonds or notes of the Authority as provided in this Article.

- (6a) To invest the proceeds of bonds or notes of the Authority that are pending disbursement or other idle funds of the Authority in any investment authorized by G.S. 159-30.
- (7) To establish, construct, purchase, maintain, equip, and operate any structure or facilities associated with the Turnpike System.
- (8) To pay all necessary costs and expenses in the formation, organization, administration, and operation of the Authority.
- (9) To apply for, accept, and administer loans and grants of money or real or personal property from any federal agency, the State or its political subdivisions, local governments, or any other public or private sources available.
- (10) To adopt, alter, or repeal its own bylaws or rules implementing the provisions of this Article, in accordance with the review and comment requirements of G.S. 136-89.182(j).
- (11) To utilize employees of the Department; to contract for the services of consulting engineers, architects, attorneys, real estate counselors, appraisers, and other consultants; to employ administrative staff as may be required in the judgment of the Authority; and to fix and pay fees or compensation to the Department, contractors, and administrative employees from funds available to the Authority.
- (12) To receive and use appropriations from the State and federal government.
- (13) To adopt procedures to govern its procurement of services and delivery of Turnpike Projects.
- (14) To perform or procure any portion of services required by the Authority.
- (15) To use officers, employees, agents, and facilities of the Department for the purposes and upon the terms as may be mutually agreeable.
- (16) To contract for the construction, maintenance, and operation of a Turnpike Project.
- (17) To enter into partnership agreements with the Department of Transportation, agreements with political subdivisions of the State, and agreements with private entities, and to expend such funds as it deems necessary, pursuant to such agreements, for the purpose of financing the cost of acquiring, constructing, equipping, operating, or maintaining any Turnpike Project. An agreement entered under this subdivision requires the concurrence of the Board of Transportation if the Department of Transportation is a party to the agreement.
- (18) To utilize incentives in any contract for development or construction of a Turnpike Project, in order to promote expedited delivery of the project."

SECTION 5. G.S. 136-89.187 reads as rewritten:

"§ 136-89.187. Conversion of free highways prohibited.

The Authority Board is prohibited from converting any segment of the nontolled State Highway System to a toll facility, except for a segment of ~~Interstate N.C. 540~~ under construction as of July 1, 2006, located in Wake and Durham Counties, ~~County~~ and extending from I-40 southwest to ~~N.C. 55~~, the N.C. 54 exit on N.C. 540 to the N.C. 55 exit on N.C. 540. No segment may be converted to a toll route pursuant to this

section unless first approved by the Metropolitan Planning Organization (MPO) or Rural Planning Organization (RPO) of the area in which that segment is located."

SECTION 6. G.S. 136-89.194 reads as rewritten:

"§ **136-89.194. Laws applicable to the Authority; exceptions.**

(a) **Motor Vehicle Laws.** – The Turnpike System shall be considered a "highway" as defined in G.S. 20-4.01(13) and a "public vehicular area" as defined in G.S. 20-4.01(32). All law enforcement and emergency personnel, including the State Highway Patrol and the Division of Motor Vehicles, shall have the same powers and duties on the Turnpike System as on any other highway or public vehicular area.

(b) Applicable Contracting. – For the purposes of implementing this Article, the Authority shall solicit competitive proposals for the construction of Turnpike Projects in accordance with the provisions of Article 2 of this Chapter. Contracts for professional engineering services and other kinds of professional or specialized services necessary in connection with construction of Turnpike Projects shall be solicited in accordance with procedures utilized by the Department of Transportation. Cost estimates prepared for the purpose of comparing bids for a Turnpike project are confidential and may not be disclosed until after the opening of bids for the project.

(c) **Alternative Contracting Methods.** – Notwithstanding the provisions of subsection (b) of this section, the Authority may authorize the use of alternative contracting methods if:

- (1) The authorization applies to an individual project;
- (2) The Authority has concluded, and documented in writing, that the alternative contracting method is necessary because the project cannot be completed utilizing the procedures of Article 2 of this Chapter within the necessary time frame or available funding or for other reasons the Authority deems in the public interest;
- (3) The Authority has provided, to the extent possible, for the solicitation of competitive proposals prior to awarding a contract; and
- (4) The approved alternative contracting method provides for reasonable compliance with the disadvantaged business participation goals of G.S. 136-28.4.

(d) **Entry for Surveys.** – The Turnpike Authority and its employees and contractors shall have the same right of entry for surveys, borings, soundings, or examinations as granted the Department of Transportation in G.S. 136-120.

(e) Plans and Contract Documents. – The requirements for registering right-of-way plans set in G.S. 136-19.4 apply to right-of-way plans of the Turnpike Authority. In applying G.S. 136-19.4 to the Authority, references to the "Department" are considered references to the "Turnpike Authority" and references to the "Board" are considered references to the "Authority Board."

Diaries and analyses for contracts of the Turnpike Authority are subject to the same restrictions on disclosure that apply to diaries and analyses for contracts of the Department under G.S. 136-28.5.

(f) Construction Claims. – G.S. 136-29 applies to the adjustment and resolution of Turnpike project construction claims. In applying G.S. 136-29 to the Turnpike Authority, references to the 'Department of Transportation,' the 'State Highway Administrator,' and a 'State highway' are considered references to the 'Turnpike Authority,' the 'chief engineer of the Turnpike Authority,' and a 'Turnpike project.'

(g) Contract Exemptions. – The following provisions concerning the purchase of goods and services by a State agency do not apply to the Turnpike Authority:

- (1) Article 3 of Chapter 143 of the General Statutes. The Authority may use the services of the Department of Administration in procuring goods and services that are not specific to establishing and operating a toll revenue system.
- (2) Article 3D of Chapter 147 of the General Statutes. The Authority may use the services of the Office of Information Technology Services in procuring goods and services that are not specific to establishing and operating a toll revenue system. All contract information for contracts for information technology are subject to disclosure in accordance with G.S. 147-33.95.
- (h) APA. – Chapter 150B of the General Statutes does not apply to the Turnpike Authority, except as provided in this section and G.S. 136-89.218."

SECTION 7. G.S. 20-54 is amended by adding a new subdivision to read:

"(10) The North Carolina Turnpike Authority has notified the Division that the owner of the vehicle has not paid the amount of tolls, fees, and civil penalties the owner owes the Authority for use of a Turnpike project."

SECTION 8. 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 or toll collection 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 or toll collection system using cameras."

SECTION 9. G.S. 47-30(l) reads as rewritten:

"(l) The provisions of this ~~This section shall~~ does not apply to the registration of highway right-of-way plans provided for in ~~G.S. 136-19.4~~ G.S. 136-19.4 or G.S. 136-89.184, nor to the registration of roadway corridor official maps provided for in Article 2E of Chapter ~~136~~, 136 of the General Statutes."

SECTION 10. G.S. 146-65 reads as rewritten:

"§ 146-65. Exemptions from Chapter.

~~None of the provisions of Chapter 146 shall~~ This Chapter does not apply to: ~~to any of the following:~~

- (1) The acquisition of highway rights-of-way, borrow pits, or other interests or estates in land acquired for the same or similar purposes, or

to the disposition thereof, by the Board of ~~Transportation; or~~ Transportation or the North Carolina Turnpike Authority.

- (2) ~~The North Carolina State Ports Authority, the authority and powers thereof set forth or provided for by G.S. 143B-452 through G.S. 143B-467 or to the exercise of all or any of such authority and powers, Authority in exercising its powers under G.S. 143B-452 through G.S. 143B-467.~~

~~Nor shall the provisions of Chapter 146 abrogate or alter any otherwise valid contract or agreement heretofore made and entered into by the State of North Carolina or by any of its subdivisions or agencies during the term or period of such contract or agreement."~~

SECTION 11. G.S. 136-89.183A reads as rewritten:

"§ **136-89.183A. Accelerated Pilot Toll Bridge Project.**

(a) Findings. – The General Assembly finds that there is a need for a bridge connecting the Currituck County mainland to the Currituck County Outer Banks; that the bridge should be implemented as a toll bridge; that the bridge should be implemented in a manner that protects the natural environment and quality of life on the Outer Banks; and that the character of the existing road system in Currituck County and Dare County Outer Banks should be preserved.

~~(a)(b)~~ Contract to Construct Accelerated Pilot Toll Bridge Project. – The Authority shall contract with a single private firm to design, obtain all necessary permits for, and construct the toll bridge described in G.S. 136-89.183(a)(2), known as the Mid-Currituck Bridge, a bridge of more than two miles in length going from the mainland to a peninsula bordering the State of Virginia, in order to provide accelerated, efficient, and cost-effective completion of the project.

~~(b)(c)~~ Preconstruction Participation. – In addition to the authority granted by G.S. 136-89.191, the Department shall participate in the cost of preconstruction activities related to the project described in this section, if requested by the Authority.

(d) Environmental Protection. – The Authority shall ensure that the Mid-Currituck Bridge is implemented in a manner that accomplishes all of the following:

- (1) Ensures the preservation of water quality in Currituck Sound.
- (2) Mitigates the environmental impact of the bridge on the Currituck County mainland and the Outer Banks.
- (3) Reduces traffic congestion and vehicle miles traveled, and preserves the character of the existing road system, in Dare County and Currituck County on the Outer Banks.

~~(e)(e)~~ Report on Project. – The Authority shall report to the Joint Legislative Transportation Oversight Committee on December 1, 2005, and each December 1 thereafter until completion, on the progress of the accelerated pilot toll bridge project described in this section."

SECTION 12. Section 7 of this act becomes effective January 1, 2011. Section 8 of this act becomes effective December 1, 2008. 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, 2008.

Became law upon approval of the Governor at 9:41 p.m. on the 17th day of August, 2008.

Session Law 2008-226

H.B. 2623

AN ACT TO CREATE AN EMERGENCY PROGRAM TO REDUCE HOME FORECLOSURES AND TO AUTHORIZE THE COMMISSIONER OF BANKS TO USE FUNDS FOR HOME FORECLOSURE PREVENTION.

Whereas, the General Assembly finds that there is a substantial increase in mortgage foreclosures due to the national subprime mortgage and housing crisis; and

Whereas, it will benefit both borrowers and lenders in the State of North Carolina if every effort is made to bring the parties together to seek solutions and avoid foreclosures; and

Whereas, in seeking resolutions to avoid foreclosure, it is important to recognize the rights and obligations under the existing mortgages and servicing contracts and the needs of borrowers and communities to preserve home ownership; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 45 of the General Statutes is amended by adding a new Article to read:

"Article 11.

"Emergency Program to Reduce Home Foreclosures.

"§ 45-100. Title.

This Article shall be known as the Emergency Program to Reduce Home Foreclosures Act.

"§ 45-101. Definitions.

The following definitions apply throughout this Article:

- (1) Act as a mortgage servicer. – To engage, whether for compensation or gain from another or on its own behalf, in the business of receiving any scheduled periodic payments from a borrower pursuant to the terms of any mortgage loan, including amounts for escrow accounts, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the mortgage loan, the mortgage servicing loan documents, or servicing contract.
- (2) Mortgage lender. – A person engaged in the business of making mortgage loans for compensation or gain.
- (3) Mortgage servicer. – A person who directly or indirectly acts as a mortgage servicer as that term is defined in subdivision (1) of this section or who otherwise meets the definition of the term 'servicer' in the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(i), with respect to mortgage loans.
- (4) Subprime loan. – A loan, originated on or after January 1, 2005, but before December 31, 2007, that would meet the definition of a rate spread home loan under G.S. 24-1.1F(a)(7), if that section had been in effect when the loan was originated. A mortgage servicer may rely on a chart reflecting the appropriate interest rate triggers for rate spread home loans for each day of the period covered by this Article provided by the Commissioner of Banks for the purposes of determining if a loan is a subprime loan covered by this Article. The Commissioner

shall provide the chart at least 60 days prior to the effective date of this act.

"§ 45-102. Pre-foreclosure notice for subprime loans.

At least 45 days prior to the filing of a notice of hearing in a foreclosure proceeding on a primary residence, mortgage servicers of subprime loans shall send written notice by mail to the last known address of the borrower to inform the borrower of the availability of resources to avoid foreclosure, including:

- (1) An itemization of all past due amounts causing the loan to be in default.
- (2) An itemization of any other charges that must be paid in order to bring the loan current.
- (3) A statement that the borrower may have options available other than foreclosure and that the borrower may discuss available options with the mortgage lender, the mortgage servicer, or a counselor approved by the U.S. Department of Housing and Urban Development.
- (4) The address, telephone number, and other contact information for the mortgage lender, the mortgage servicer, or the agent for either of them who is authorized to attempt to work with the borrower to avoid foreclosure.
- (5) The name, address, telephone number, and other contact information for one or more HUD-approved counseling agencies operating to assist borrowers in North Carolina to avoid foreclosure.
- (6) The address, telephone number, and other contact information for the consumer complaint section of the Office of Commissioner of Banks.

"§ 45-103. Pre-foreclosure information to be filed with the Administrative Office of the Courts for certain subprime loans.

(a) Within three business days of mailing the notice required by G.S. 45-102, the mortgage servicer shall file certain information with the Administrative Office of the Courts. The filing shall be in an electronic format, as designated by the Administrative Office of the Courts, and shall contain the name and address of the borrower and the date the notice was mailed to the borrower.

(b) As permitted by applicable State and federal law, optional information may be requested from the mortgage servicer to facilitate further review by the State Home Foreclosure Prevention Project described in G.S. 45-104. The nature of the optional information requested shall be determined in connection with the design of the database established by subsection (c) of this section. This optional information shall be used by the State Home Foreclosure Prevention Project to prioritize efforts to reach borrowers most likely to avoid foreclosure and to prevent delay for defaults where foreclosure is unavoidable.

(c) No later than October 1, 2008, the Administrative Office of the Courts shall establish an internal database to track information provided in this section. The Commissioner of Banks shall design and develop this database, in consultation with the Administrative Office of the Courts, in a manner to promote the efforts of the State Home Foreclosure Prevention Project. Only the Administrative Office of the Courts, the Office of Commissioner of Banks, and the clerk of court as provided by G.S. 45-107 shall have access to the database.

"§ 45-104. State Home Foreclosure Prevention Project.

The Commissioner of Banks is authorized to establish the State Home Foreclosure Prevention Project. The purpose of the Project is to seek solutions to avoid foreclosures

for certain subprime loans. In developing the Project, the Commissioner may include input from HUD-approved housing counselors, community organizations, state agencies, mortgage lenders, mortgage servicers, and other partners.

"§ 45-105. Extension of foreclosure process.

The Commissioner of Banks shall review information provided in the database created by G.S. 45-103 to determine which subprime loans are appropriate for efforts to avoid foreclosure. If the Commissioner reasonably believes, based on a full review of the loan information, the mortgage servicer's loss mitigation efforts, the borrower's capacity and interest in staying in the home, and other appropriate factors, that further efforts by the State Home Foreclosure Prevention Project offer a reasonable prospect to avoid foreclosure on primary residences, the Commissioner shall have the authority to extend one time under this Article the allowable filing date for any foreclosure proceeding on a primary residence by up to 30 days beyond the earliest filing date established by the pre-foreclosure notice. If the Commissioner makes the determination that a loan is subject to this section, the Commissioner shall notify the borrower, mortgage servicer, and the Administrative Office of the Courts.

"§ 45-106. Use and privacy of records.

The data provided to the Administrative Office of the Courts pursuant to G.S. 45-103 shall be exclusively for the use and purposes of the State Home Foreclosure Prevention Project developed by the Commissioner of Banks in accordance with G.S. 45-104. The information provided to the database is not a public record, except that a mortgage lender and a mortgage servicer shall have access to the information submitted only with regard to its own loans. Provision of information to the Administrative Office of the Courts for use by the State Home Foreclosure Prevention Project shall not be considered a violation of G.S. 53B-8. A mortgage servicer shall be held harmless for any alleged breach of privacy rights of the borrower with respect to the information the mortgage servicer provides in accordance with this Article.

"§ 45-107. Foreclosure filing.

(a) For the duration of the program authorized by this Article, foreclosure notices filed on subprime loans on or after November 15, 2008, shall contain a certification by the filing party that the pre-foreclosure notice required by G.S. 45-102 and the pre-foreclosure information required by G.S. 45-103 were provided in accordance with this Article and that the periods of time established by the Article have elapsed.

(b) The clerk of superior court or other judicial officer may have access to the pre-foreclosure database to confirm information provided in subsection (a) of this section. A materially inaccurate statement in the certification shall be cause for dismissal without prejudice of any foreclosure proceeding on a primary residence initiated by the mortgage servicer and for payment by the filing party of costs incurred by the borrower in defending the foreclosure proceeding."

SECTION 2. G.S. 45-21.16 is amended by adding a new subsection to read:

"(c2) In any foreclosure filed on or after November 15, 2008, where the underlying mortgage debt is a subprime loan as defined in G.S. 45-101(4), the notice required by subsection (b) of this section shall contain a certification by the filing party that the pre-foreclosure notice and information required by G.S. 45-102 and G.S. 45-103 were provided in all material respects and that the periods of time established by Article 11 of this Chapter have elapsed."

SECTION 3. G.S. 45-21.16(d) reads as rewritten:

"(d) The hearing provided by this section shall be held before the clerk of court in the county where the land, or any portion thereof, is situated. In the event that the

property to be sold consists of separate tracts situated in different counties or a single tract in more than one county, only one hearing shall be necessary. However, prior to that hearing, the mortgagee or trustee shall file the notice of hearing in any portion of the property to be sold is located. Upon such hearing, the clerk shall consider the evidence of the parties and may consider, in addition to other forms of evidence required or permitted by law, affidavits and certified copies of documents. If the clerk finds the existence of (i) valid debt of which the party seeking to foreclose is the holder, (ii) default, (iii) right to foreclose under the instrument, ~~and~~-(iv) notice to those entitled to such under subsection (b), and (v) that the underlying mortgage debt is not a subprime loan as defined in G.S. 45-101(4), or if the loan is a subprime loan under G.S. 45-101(4), that the pre-foreclosure notice under G.S. 45-102 was provided in all material respects, and that the periods of time established by Article 11 of this Chapter have elapsed, then the clerk shall authorize the mortgagee or trustee to proceed under the instrument, and the mortgagee or trustee can give notice of and conduct a sale pursuant to the provisions of this Article. A certified copy of any authorization or order by the clerk shall be filed in any other county where any portion of the property to be sold is located before the mortgagee or trustee may proceed to advertise and sell any property located in that county. In the event that sales are to be held in more than one county, the provisions of G.S. 45-21.7 apply."

SECTION 4.(a) If House Bill 2436, 2008 Regular Session, becomes law, Section 6.9A(1) of that act reads as rewritten:

"**SECTION 6.9A.** The General Assembly finds that homeownership is the primary means by which families and individuals of low and moderate incomes build wealth. The General Assembly further finds that homeownership and a healthy housing market are essential to the health and economic vitality of North Carolina. To help stabilize the housing market, the General Assembly provides in excess of fourteen million dollars (\$14,000,000) in funding for and support of the following initiatives:

- (1) ~~\$1,000,000~~ \$600,000 in nonrecurring funds from the State Banking Commission for counseling services to assist homeowners at risk of ~~foreclosure.~~ foreclosure and \$400,000 in nonrecurring funds from the State Banking Commission to implement the Emergency Home Foreclosure Reduction Program as provided in House Bill 2623, 2008 Regular Session.

...."

SECTION 4.(b) If House Bill 2436, 2008 Regular Session, becomes law, Section 13.6B of that act reads as rewritten:

"**SECTION 13.6B.(a)** The Commissioner of Banks shall use ~~one million dollars (\$1,000,000)~~ six hundred thousand dollars (\$600,000) of the funds available to the State Banking Commission in the 2008-2009 fiscal year to make grants to nonprofit counseling agencies in the ~~State that are designated and approved by the North Carolina Housing Finance Agency.~~ State. Grants made under this section shall be used to provide housing counseling and related services to help homeowners avoid home loss and foreclosure and to preserve home equity. Grants may also be used to provide training for counselors.

"**SECTION 13.6B.(b)** The State Banking Commission shall report to the Joint Legislative Commission on Governmental Operations regarding the implementation of ~~this program~~ the program in subsection (a) of this section by February 15, 2009.

"**SECTION 13.6B.(c)** The Commissioner of Banks shall use four hundred thousand dollars (\$400,000) of the funds available to the State Banking Commission in the

2008-2009 fiscal year to implement the Emergency Home Foreclosure Reduction Program as provided in House Bill 2623, 2008 Regular Session."

SECTION 5. The Office of the Commissioner of Banks shall report to the General Assembly describing the operation of the program established by this act not later than May 1 of each year until the funds are completely disbursed from the reserve. Information in the report shall be presented in aggregate form and may include the number of clients helped, the effectiveness of the funds in preventing home foreclosure, recommendations for further efforts needed to reduce foreclosures, and provide any other aggregated information the Commissioner determines is pertinent or that the General Assembly requests.

SECTION 6. Section 4 of this act becomes effective July 1, 2008. The remainder of this act becomes effective November 1, 2008, and expires October 31, 2010.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Became law upon approval of the Governor at 9:56 p.m. on the 17th day of August, 2008.

Session Law 2008-227

H.B. 2188

AN ACT TO REQUIRE THAT ANY FEE INCURRED BY A HOME LOAN SERVICER BE CLEARLY AND CONSPICUOUSLY EXPLAINED TO THE BORROWER WITHIN THIRTY DAYS AFTER THE FEE IS ASSESSED, TO CLARIFY THAT THE SERVICER IS NOT REQUIRED TO SEND A STATEMENT TO THE BORROWER UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT A SERVICER IS NOT REQUIRED TO PROVIDE NOTIFICATION TO THE BORROWER IF A PARTIAL PAYMENT IS ACCEPTED AND CREDITED IN ACCORDANCE WITH A WRITTEN AGREEMENT, TO MAKE CONFORMING CHANGES IN THE DEFINITION OF HIGH COST HOME LOANS, AND TO ADD TO THE LIST OF PROHIBITED ACTS UNDER THE MORTGAGE LENDING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45-91 reads as rewritten:

"§ 45-91. (Effective April 1, 2008) **Assessment of fees; processing of payments; publication of statements.**

A servicer must comply as to every home loan, regardless of whether the loan is considered in default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the following requirements:

- (1) Any fee that is incurred by a servicer shall be both:
 - a. Assessed within 45 days of the date on which the fee was incurred. Provided, however, that attorney or trustee fees and costs incurred as a result of a foreclosure action shall be assessed within 45 days of the date they are charged by either the attorney or trustee to the servicer.
 - b. Explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last known address ~~at least~~ within 30 days after assessing the fee, provided the servicer shall not be required to take any action in violation of the

- provisions of the federal bankruptcy code. The servicer shall not be required to send such a statement for a fee that: (i) results from a service that is affirmatively requested by the borrower, (ii) is paid for by the borrower at the time the service is provided, and (iii) is not charged to the borrower's loan account.
- (2) All amounts received by a servicer on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, within one business day of the date received, provided that the borrower has made the full contractual payment and has provided sufficient information to credit the account. If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date. Provided, however, that if any payment is received and not credited, or treated as credited, the borrower shall be notified within 10 business days by mail at the borrower's last known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.
- (2a) The notification required by subdivision (2) of this section is not necessary if (i) the servicer complies with the terms of any agreement or plan made with the borrower and has applied and credited payments received in the manner required, and (ii) the servicer is applying and crediting payments to the borrower's account in compliance with all applicable State and federal laws, including bankruptcy laws, and if at least one of the following occurs:
- a. The borrower has entered into a written loss mitigation, loan modification, or forbearance agreement with the servicer that itemizes all amounts due and specifies how payments will be applied and credited;
 - b. The borrower has elected to participate in an alternative payment plan, such as a biweekly payment plan, that specifies as part of a written agreement how payments will be applied and credited; or
 - c. The borrower is making payments pursuant to a bankruptcy plan.
- (3) Failure to charge the fee or provide the information within the allowable time and in the manner required under subdivision (1) of subsection (a) of this section constitutes a waiver of such fee.
- (4) All fees charged by a servicer must be otherwise permitted under applicable law and the contracts between the parties. Nothing herein is intended to permit the application of payments or method of charging interest which is less protective of the borrower than the contracts between the parties and other applicable law."

SECTION 2. G.S. 24-1.1E(a)(6) reads as rewritten:

- "(6) "Thresholds" means:
- a. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" (as the term "residential mortgage transaction" is defined in section 226.2(a)(24) of Title

12 of the Code of Federal Regulations, as amended from time to time), the annual percentage rate of the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. § 1602(aa)]), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including section 226.32 of Title 12 of the Code of Federal Regulations, as the same may be amended from time to time;

- b. The total points and ~~fees~~ fees, ~~payable by the borrower at or before the loan closing as defined in G.S. 24-1.1E(a)(5)~~, exceed five percent (5%) of the total loan amount if the total loan amount is twenty thousand dollars (\$20,000) or more, or (ii) the lesser of eight percent (8%) of the total loan amount or one thousand dollars (\$1,000), if the total loan amount is less than twenty thousand dollars (\$20,000); provided, the following discount points and prepayment fees and penalties shall be excluded from the calculation of the total points and fees payable by the borrower:
1. Up to and including two bona fide loan discount points payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than one percentage point (1%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;
 2. Up to and including one bona fide loan discount point payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than two percentage points (2%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;
 3. For a closed-end loan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than 30 months after the loan closing;
 4. For an open-end credit plan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan

documents do not permit the lender to charge or collect any prepayment fees or penalties more than (i) 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, 30 months after the date the borrower voluntarily exercises that right or option; or

- c. If the loan is a closed-end loan, the loan documents permit the lender to charge or collect prepayment fees or penalties more than 30 months after the loan closing or which exceed, in the aggregate, more than two percent (2%) of the amount prepaid. If the loan is an open-end credit plan, the loan documents permit the lender to charge or collect prepayment fees or penalties (i) more than 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, more than 30 months after the date the borrower voluntarily exercises that right or option, or (iii) which exceed, in the aggregate, more than two percent (2%) of the amount prepaid."

SECTION 3. G.S. 53-243.11 is amended by adding a new subdivision to read:

"(16) In connection with the brokering or making of a rate-spread home loan as defined under G.S. 24-1.1F, no lender shall provide nor shall any broker receive any compensation that changes based on the terms of the loan. This subdivision shall not prohibit compensation based on the principal balance of the loan."

SECTION 4. This act becomes effective October 1, 2008.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Became law upon approval of the Governor at 10:02 p.m. on the 17th day of August, 2008.

Session Law 2008-228

H.B. 2463

AN ACT TO REGULATE MORTGAGE SERVICING; TO REQUIRE MORTGAGE SERVICER LICENSURE UNDER THE MORTGAGE LENDING ACT; AND TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE MORTGAGE LENDING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-243.01 reads as rewritten:

"§ 53-243.01. Definitions.

The following definitions apply in this Article:

- (1) Act as a mortgage broker. – To act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by accepting or offering to accept an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, negotiating the terms or conditions of a mortgage loan, issuing mortgage loan commitments or interest rate guarantee agreements to borrowers, or engaging in tablefunding of mortgage loans, whether such acts are done through contact by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers.
- (2) Act as a mortgage lender. – To engage in the business of making mortgage loans for compensation or gain.
- (3) Act as a mortgage servicer. – To engage, whether for compensation or gain from another or on its own behalf, in the business of receiving any scheduled periodic payments from a borrower pursuant to the terms of any mortgage loan, including amounts for escrow accounts, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the mortgage loan, the mortgage servicing loan documents, or servicing contract.
- ~~(2a)~~(4) Affiliate. – Any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. § 1841), et seq., as amended from time to time. For purposes of this subdivision, the term control means ownership of all of the voting stock or comparable voting interest of the controlled person.
- ~~(2b)~~(5) Affiliated mortgage banker. – A licensed mortgage banker that meets the criteria of either sub-subdivisions a., b., and c. of this subdivision or sub-subdivisions d. and e. of this subdivision:
 - a. The licensee, by itself or with its affiliates, is licensed in five or more states to engage in the mortgage lending business and (i) is supervised by a state or federal regulatory agency whose regulatory scheme has been determined by the Commissioner to be substantially similar to that of North Carolina, (ii) is organized and supervised under the laws of a state that has adopted a model licensing law endorsed by the Commissioner; or (iii) is supervised by a state or federal agency that is a party to an interstate compact, or has otherwise entered into a cooperative reciprocal agreement by which the state or federal regulatory agency and the State of North Carolina, directly or by duly authorized act of the Commissioner, have mutually agreed to recognize state licensing laws which have specific enumerated criteria.
 - b. The licensee, including its affiliates and wholly owned subsidiaries, has more than 100 employees that are licensed pursuant to this Article.

- c. The licensee has a consolidated net worth of one hundred million dollars (\$100,000,000) or more, or if the licensee does not have the required net worth, its parent shall provide to the Commissioner (i) evidence satisfactory to the Commissioner that the parent has a net worth of one hundred million dollars (\$100,000,000) or more, and (ii) an unconditional guarantee or comparable instrument of surety satisfactory to the Commissioner of the performance of the licensee of its obligations under this Article.
 - d. The licensee is a direct or indirect wholly owned subsidiary of a bank holding company or financial services holding company subject to regulation by the Federal Reserve Board or the Office of Thrift Supervision.
 - e. The licensee has a net worth of one hundred million dollars (\$100,000,000) or, if the licensee does not have the required net worth, (i) its parent, if it is not a bank holding company or financial holding company, meets the requirements of sub-subdivision c. of this subdivision or (ii) its parent, if such parent is a bank holding company or financial holding company, has total assets in excess of ten billion dollars (\$10,000,000,000) and provides the Commissioner with the unconditional guarantee or comparable instrument of surety required by sub-subdivision c. of this subdivision.
- ~~(3)~~(6) Branch manager. – The individual whose principal office is physically located in, who is in charge of, and who is responsible for the business operations of a branch office of a mortgage broker or mortgage banker.
- ~~(4)~~(7) Branch office. – An office of the licensee acting as a mortgage broker or mortgage banker that is separate and distinct from the licensee's principal office. A branch office shall not be located at an individual's home or residence.
- ~~(5)~~(8) Commissioner. – The North Carolina Commissioner of Banks and the Commissioner's designees. For purposes of compliance with this Article by credit unions, Commissioner means the Administrator of the Credit Union Division of the Department of Commerce.
- ~~(6)~~(9) Control. – ~~Except as provided in subdivision (2a) of this section, "control" means the power to vote more than twenty percent (20%) of outstanding voting shares or other interests of a corporation, partnership, limited liability company, association, or trust. The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person that (i) is a director, general partner, or executive officer; (ii) directly or indirectly has the right to vote ten percent (10%) or more of a class of a voting security or has the power to sell or direct the sale of ten percent (10%) or more of a class of voting securities; (iii) in the case of a Limited Liability Company, is a managing member; or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent (10%) or more of the capital, is presumed to control the company.~~

- (7)(10) Employee. – An individual, who has an employment relationship, acknowledged by both the individual and the mortgage broker or mortgage banker or mortgage servicer and is treated as ~~an~~ a common law employee for purposes of compliance with the federal income tax ~~laws~~ laws and whose income is reported on IRS Form W-2.
- (7a)(11) Exclusive mortgage broker. – An individual who acts as a mortgage broker exclusively for a single mortgage banker or single exempt person and who is licensed under the provisions of G.S. 53-243.05(c)(1a).
- (8)(12) Exempt person. – The term includes any of the following:
- a. Any agency of the federal government or any state or municipal government granting or servicing mortgage loans under specific authority of the laws of any state or the United States.
 - b. Any employee of a licensee whose responsibilities are limited to clerical and administrative tasks for his or her employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer.
 - c. Any person authorized to engage in business as a bank or a wholly owned subsidiary of a bank, a farm credit system, savings institution, or a wholly owned subsidiary of a savings institution, or credit union or a wholly owned subsidiary of a credit union, under the laws of the United States, this State, or any other state. Except for G.S. 53-243.11 and G.S. 53-243.15, this Article does not apply to the exempt persons set forth in this ~~sub-subdivision (8)e~~ sub-subdivision.
 - d. Any licensed real estate agent or broker who is performing those activities subject to the regulation of the North Carolina Real Estate Commission. Notwithstanding the above, an exempt person does not include a real estate agent or broker who receives compensation of any kind in connection with the referral, placement, or origination of a mortgage loan.
 - e. Any officer or employee of an exempt person described in sub-subdivision c. of this subdivision when acting in the scope of employment for the exempt person.
 - f. Any person who, acting as seller, seller and lender and servicer in a residential real estate transaction, receives and services in one calendar year no more than five purchase money notes secured by mortgages, deeds of trust, or other security instruments on the real estate sold as security for ~~a~~ the purchase money obligation.
 - g. The North Carolina Housing Finance Agency as established by Article 122A of the General Statutes and the North Carolina Agricultural Finance Authority as established by Article 122D of the General Statutes.
 - h. Any nonprofit corporation qualifying under section 501(c)(3) of the Internal Revenue Code which makes or services mortgage loans to promote home ownership or home improvements for the disadvantaged, provided that such corporation is not

- primarily in the business of soliciting or brokering or servicing mortgage loans.
- i. Any life insurance companies licensed to do business in North Carolina with regard to provisions concerning mortgage lenders.
 - j. A North Carolina licensed attorney who, in the practice of law or in performing as a trustee, accepts payments related to a loan closing, default, foreclosure, loss mitigation, or litigation or settlement of a dispute or legal claim related to a loan.
 - k. A mortgage banker licensed under this Article and any employee of a mortgage banker licensed under this Article are exempt from the requirement to obtain a separate license as a mortgage servicer, provided, however, that all provisions of this Article applicable to mortgage servicers are applicable to any mortgage banker or any employee of a mortgage banker acting as a mortgage servicer, except as provided in G.S. 53-243.15(c).
- ~~(9)~~(13) Licensee. – A loan officer, limited loan officer, mortgage broker, ~~or mortgage banker~~ mortgage banker, or mortgage servicer who is licensed pursuant to this Article.
- ~~(10)~~(14) Loan officer. – An individual who, in exchange for compensation as an employee of another person, accepts or offers to accept applications for mortgage ~~loans~~ loans, or who solicits or offers to solicit a mortgage loan, negotiates the terms or conditions of a mortgage loan, issues mortgage loan commitments or interest rate guarantee agreements to borrowers, whether such acts are done through contact by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers. The definition of loan officer shall not include any exempt person described in sub-subdivision ~~(8)b.~~(12)b. of this section.
- ~~(10a)~~(15) Limited loan officer. – An individual who, in exchange for compensation as an employee of an affiliated mortgage banker, directly solicits, negotiates, offers, or makes commitments for mortgage loans. The definition of limited loan officer shall not include any exempt person described in sub-subdivision ~~(8)b.~~(12)b. of this section.
- ~~(11)~~(16) Make a mortgage loan. – To close a mortgage loan, to advance funds, to offer to advance funds, or to make a commitment to advance funds to a borrower under a mortgage loan.
- ~~(12)~~ ~~Managing principal. – A person who meets the requirements of G.S. 53-243.05(c) and who agrees to be primarily responsible for the operations of a licensed mortgage broker or mortgage banker.~~
- ~~(13)~~(17) Mortgage banker. – A person who acts as a mortgage lender as that term is defined in subdivision (2) of this section. However, the definition does not include a person who acts as a mortgage lender only in tablefunding transactions.
- ~~(14)~~(18) Mortgage broker. – A person who acts as a mortgage broker as that term is defined in subdivision (1) of this section. The term "mortgage broker" includes an exclusive mortgage broker, except when expressly provided otherwise.

- (15)(19) Mortgage loan. – A loan made to a natural person or persons primarily for personal, family, or household use, primarily secured by either a mortgage or a deed of trust on residential real property located in North Carolina.
- (20) Mortgage servicer. – A person who directly or indirectly acts as a mortgage servicer as that term is defined in subdivision (3) of this section or who otherwise meets the definition of 'servicer' in RESPA, 12 U.S.C. § 2605(i), with respect to mortgage loans.
- (15a)(21) ~~Parent.~~ – The person that controls an affiliated mortgage ~~banker, banker, mortgage broker, or mortgage servicer,~~ as control is defined in subdivision ~~(2a)(4)~~ of this section.
- (16)(22) Person. – An individual, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.
- (17)(23) Qualified lender. – A person who is engaged as a mortgage lender in North Carolina and is either a supervised or a nonsupervised institution, as these terms are defined in 24 C.F.R. § 202.2, approved by the United States Department of Housing and Urban Development.
- (18)(24) Qualified person. – A person who is employed as a loan officer by a qualified lender, or by a mortgage banker or broker registered with the Commissioner under former Article 19 of this Chapter, or who is a general partner, manager, or officer of a qualified lender, registered mortgage banker, or registered mortgage broker.
- (25) Qualified servicer. – A person who is engaged in the business of acting as a mortgage servicer in North Carolina and who has been approved by the United States Department of Housing and Urban Development to service FHA loans or has been approved as a servicer by either the Federal National Mortgage Association or by the Federal Home Loan Mortgage Corporation.
- (26) Qualifying individual. – A person who meets the requirements of G.S. 53-243.05(c) and who agrees to be primarily responsible for the operations of a licensed mortgage broker or mortgage banker or mortgage servicer.
- (19)(27) Residential real property. – Real property located in the State of North Carolina upon which there is located or is to be located one or more single-family dwellings or dwelling units.
- (28) RESPA. – The Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, et seq., as it may be hereafter amended.
- (20)(29) Tablefunding. – A transaction where a licensee closes a loan in its own name with funds provided by others, and the loan is assigned simultaneously to the mortgage lender providing the funding within one business day of the funding of the loan."

SECTION 2. G.S. 53-243.02 reads as rewritten:

"§ 53-243.02. **License required; licensee records.**

(a) Other than an exempt person, it is unlawful for any person in this State to act as a mortgage ~~broker or broker,~~ mortgage banker, or mortgage servicer, or directly or indirectly to engage in the business of a mortgage ~~broker or a broker,~~ mortgage ~~banker, banker,~~ or mortgage servicer, without first obtaining a license from the Commissioner under the provisions of this Article. This Article shall apply to any

person who seeks to avoid its application by any direct or indirect device, subterfuge, artifice, or pretense whatsoever.

...

(e) No person, other than an exempt person, shall hold himself or herself out as a mortgage banker, an affiliated mortgage banker, a mortgage broker, a mortgage servicer, a limited loan officer, or a loan officer unless such person is licensed in accordance with this Article.

(f) Any person who has completed and filed with the Commissioner the application and all documents required for licensure as a loan officer other than documents relating to the required examination and the mortgage lending fundamentals course may act as a loan officer during the period before action is taken on the application by the Commissioner, if:

- (1) The Commissioner has not denied, revoked, or taken any adverse action with respect to an application filed by or license held by such person during the five-year period ending on the date of filing of the application;
- (2) The loan officer is employed by a licensed mortgage broker or mortgage banker, and the ~~managing principal~~qualifying individual of such mortgage broker or mortgage banker (i) certifies to the Commissioner in writing that the ~~managing principal~~qualifying individual reasonably believes that the application of the person for licensure as a loan officer meets or exceeds all of the relevant requirements of this Article for licensure and (ii) undertakes in writing that the ~~managing principal~~qualifying individual and the employer will be responsible for the acts of the applicant during the period that such application is pending; and
- (3) The person is currently or has within the six-month period prior to the date of the application been employed as and acting as a loan officer for an exempt entity which entity is exempt by virtue of an exemption claimed under G.S. ~~53-243.01(8)~~53-243.01(12)c.

(g) The Commissioner may deny or suspend the rights of a mortgage broker or mortgage banker to employ a loan officer acting under subsection (f) of this section if the Commissioner finds that the mortgage broker or mortgage banker, or the ~~managing principal~~qualifying individual thereof, makes the certification or undertaking set forth in subdivision (2) of subsection (f) of this section not in good faith."

SECTION 3. G.S. 53-243.05 reads as rewritten:

"§ **53-243.05. Qualifications for licensure; issuance.**

(a) Any person, other than an exempt person, desiring to obtain a license pursuant to this Article shall make written application for licensure to the Commissioner on forms prescribed by the Commissioner. In accordance with rules adopted by the Commission, the application shall contain any information the Commissioner deems necessary regarding the following:

- (1) The applicant's name and address (including street address, mailing address, e-mail, and telephone contact information) and social security ~~number~~number or taxpayer identification number.
- (2) The applicant's form and place of organization, if applicable.
- (3) The applicant's proposed method of and locations for doing business, if applicable.

- (4) The qualifications and business history of the applicant and, if applicable, the business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant, including: (i) a description of any injunction or administrative order by any state or federal authority to which the person is or has been subject; (ii) a ~~conviction~~ conviction, within the past 10 years, of a misdemeanor involving fraudulent dealings or moral turpitude or relating to any aspect of the residential mortgage lending business any fraud, false statement or omission, any theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or conspiracy to commit any of these offenses; or involving any financial service or financial service-related business; (iii) any felony convictions.
- (5) With respect to an application for licensing as a mortgage ~~banker or broker~~, banker, mortgage broker, or mortgage servicer, the applicant's financial condition, credit history, and business history; and with respect to the application for licensing as a loan officer, the applicant's credit history and business history.
- (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~~ qualifying individual 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 constitutes grounds for the Commissioner to deny licensure to the 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~~ qualifying individual or a current or proposed branch manager.
- (b) In addition to the requirements imposed by the Commissioner under subsection (a) of this section, each individual applicant for licensure as a loan officer shall:
- (1) Be at least 18 years of age.
 - (2) Have satisfactorily completed, within the three years immediately preceding the date application is made, a mortgage lending fundamentals course approved by the Commissioner. The course shall consist of at least eight hours of classroom instruction in subjects related to mortgage lending approved by the Commissioner. In addition, the applicant shall have satisfactorily completed a written examination approved by the Commissioner or possess residential mortgage lending education or experience in residential mortgage lending transactions that the Commissioner deems equivalent to the course.
- (c) In addition to the requirements under subsection (a) of this section, each applicant for licensure as a mortgage broker or mortgage banker or mortgage servicer at

the time of application and at all times thereafter shall comply with the following requirements:

- (1) Except as provided for in subdivision (1a) of this subsection, if the applicant is a sole proprietor, the applicant shall have at least three years of experience in residential mortgage lending or other experience or competency requirements as the Commissioner may impose. Experience as an exclusive mortgage broker or as a limited loan officer shall not constitute mortgage-lending experience under this subdivision.
- (1a) If an individual applicant to be licensed as a mortgage broker meets all other requirements for licensure under this section but does not meet the requirements of subdivision (1) of this subsection, the individual applicant may be licensed as an exclusive mortgage broker upon compliance with all of the following:
 - a. Successfully complete both a residential mortgage-lending course approved by the Commissioner of not less than 40 hours of classroom instruction, and a written examination approved by the Commissioner.
 - b. Act exclusively as a mortgage broker for a single mortgage banker licensee or single exempt mortgage banker for whom the broker shall be deemed an agent, who shall be responsible for supervising the broker as required by this Article, who shall sign the license application of the applicant, and who shall be jointly and severally liable with the broker for any claims arising out of the broker's mortgage lending activities.
 - c. Shall be compensated for the broker's mortgage brokering activities on a basis that is not dependent upon the loan amount, interest rate, fees, or other terms of the loans brokered.
 - d. Shall not handle borrower or other third-party funds in connection with the brokering or closing of mortgage loans.
- (2) If the applicant is a general or limited partnership, at least one of its general partners shall have the experience as described under subdivision (1) of this subsection.
- (3) If the applicant is a corporation, at least one of its principal officers shall have the experience as described under subdivision (1) of this subsection.
- (4) If the applicant is a limited liability company, at least one of its managers shall have the experience as described under subdivision (1) of this subsection.

(d) Each applicant shall identify one person meeting the requirements of subsection (c) of this section to serve as the applicant's ~~managing principal~~ qualifying individual.

(e) Every applicant for initial licensure shall pay a filing fee not to exceed one thousand two hundred fifty dollars (\$1,250) for licensure as a mortgage ~~broker or broker,~~ broker or mortgage banker-banker, or mortgage servicer or sixty-seven dollars and fifty cents (\$67.50) for licensure as a loan officer or limited loan officer, in addition to the actual cost of obtaining credit reports and State and national criminal history record checks.

(f) A mortgage banker or mortgage servicer shall post a surety bond in the amount of one hundred fifty thousand dollars (\$150,000), and a mortgage broker shall

post a surety bond in the amount of fifty thousand dollars (\$50,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee under this Article. The aggregate liability of the surety shall not exceed the principal sum of the bond. A party having a claim against the licensee may bring suit directly on the surety bond, or the Commissioner may bring suit on behalf of any claimants, either in one action or in successive actions. Consumer claims shall be given priority in recovering from the bond. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond that is required. An audited financial statement from a qualified lender or qualified servicer showing a net worth of two hundred fifty thousand dollars (\$250,000) or more shall be accepted in lieu of any bond required.

(g) Any general partner, manager of a limited liability company, or officer of a corporation who individually meets the requirements under subsection (b) of this section shall, upon payment of the applicable fee, meet the qualifications for licensure as a loan officer subject to the provisions of subsection (i) of this section.

(h) Each principal office and each branch office of a mortgage broker or mortgage banker licensed under the provisions of this Article shall be issued a separate license. A licensed mortgage broker or mortgage banker shall file with the Commissioner an application on a form prescribed by the Commissioner that identifies the address of the principal office and each branch office and branch manager. A filing fee not to exceed one hundred twenty-five dollars (\$125.00) shall be assessed by the Commissioner for each branch office issued a license.

(i) If the Commissioner determines that an applicant meets the qualifications for licensure and finds that the financial responsibility, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly and fairly, the Commissioner shall issue a license to the applicant. In addition, for an applicant qualifying as an exclusive mortgage broker, the Commissioner shall determine if the mortgage broker/mortgage banker relationship is in the public interest."

SECTION 4. G.S. 53-243.06 reads as rewritten:

"§ 53-243.06. License renewal; termination.

(a) All licenses issued by the Commissioner under the provisions of this Article shall expire annually on the ~~30th day of June~~31st day of December following issuance or on any other date that the Commissioner may determine. The license shall become invalid after that date unless renewed. A license may be renewed ~~45 days prior to the expiration date~~on or after November 1 by compliance with subsection (b1) of this section and by paying to the Commissioner, in addition to the actual cost of obtaining credit reports and State and national criminal history record checks and of processing fees of the nationwide system as the Commissioner may require, a renewal fee as follows:

- (1) Licensed mortgage bankers and licensed mortgage servicers shall pay an annual fee not to exceed six hundred twenty-five dollars (\$625.00) and one hundred twenty-five dollars (\$125.00) for each branch office.
- (2) Licensed mortgage brokers shall pay an annual fee not to exceed six hundred twenty-five dollars (\$625.00) and one hundred twenty-five dollars (\$125.00) for each branch office. Licensed exclusive mortgage brokers shall pay an annual fee not to exceed six hundred twenty-five dollars (\$625.00).

(3) Licensed loan officers shall pay an annual fee not to exceed sixty-seven dollars and fifty cents (\$67.50).

(b) If a mortgage ~~banker~~ banker, mortgage servicer, or mortgage broker license is not renewed prior to the applicable expiration date, then ~~an additional~~ two hundred fifty dollars (\$250.00) in addition to the renewal fee under subsection (a) of this section shall be assessed as a late fee to any renewal. If a loan officer or limited loan officer license is not renewed prior to the applicable expiration date, then ~~an additional fifty one hundred~~ dollars (~~\$50.00~~\$100.00) in addition to the renewal fee under subsection (a) of this section shall be assessed as a late fee to any renewal. In the event a licensee fails to obtain a reinstatement of the license ~~within 90 days after the date the license expires,~~ prior to March 1, the Commissioner may require the licensee to comply with the requirements for the initial issuance of a license under the provisions of this Article.

(b1) When required by the Commissioner, each individual described in G.S. 53-245.05(a)(6) shall furnish to the Commissioner his or her consent to a criminal history record check and a set of 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 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~~ qualifying individual or a current or proposed branch manager.

(c) Licenses issued under this Article are not assignable. Control of a licensee shall not be acquired through a stock purchase or other device without the prior written consent of the Commissioner. The Commissioner shall not give written consent if the Commissioner finds that any of the grounds for denial, revocation, or suspension of a license pursuant to G.S. 53-243.12 are applicable to the acquiring person."

SECTION 5. G.S. 53-243.08 reads as rewritten:

"§ **53-243.08. ~~Managing principals~~ Qualifying individuals and branch managers.**

Each mortgage broker or mortgage banker or mortgage servicer licensed under this Article shall have a ~~managing principal~~ qualifying individual who operates the business under that person's full charge, control, and supervision. Mortgage bankers and mortgage brokers, other than exclusive mortgage brokers, may operate branch offices subject to the requirements of this Article. Each principal and branch office of a mortgage broker or mortgage banker licensed under this Article, shall have a branch manager who meets the experience requirements under G.S. 53-243.05(c)(1); provided, that an affiliated mortgage banker may designate a branch manager who does not meet the experience requirements so long as at or before the designation, it certifies that the person has been employed by the affiliated mortgage banker for at least one year as a loan officer, limited loan officer, or in a comparable position in another state. The ~~managing principal~~ qualifying individual for a licensee's business may also serve as the branch manager of one of the licensee's branch offices. Each mortgage broker or mortgage banker licensed under this Article shall file a form as prescribed by the Commissioner indicating the business's designation of ~~managing principal~~ qualifying individual and branch manager for each branch and each individual's acceptance of the responsibility. Each mortgage broker or mortgage banker licensed under this Article shall notify the Commissioner of any change in its ~~managing principal~~ qualifying individual or branch manager designated for each branch. Each mortgage servicer licensed under this Article shall file a form prescribed by the Commissioner indicating the business's designation of its qualifying individual and shall notify the Commissioner of any change in its qualifying individual. Any licensee who does not comply with this

provision shall have the licensee's license suspended pursuant to G.S. 53-243.12 until the licensee complies with this section. Any individual licensee who operates as a sole proprietorship shall be considered a ~~managing principal~~ qualifying individual for the purposes of this Article."

SECTION 6. G.S. 53-243.09 reads as rewritten:

"§ 53-243.09. Offices; address changes; display of license.

(a) Each mortgage broker licensee shall maintain and transact business from a principal place of business in this State. A principal place of business in this State shall consist of at least one enclosed room or building of stationary construction in which negotiations of mortgage loan transactions of others may be conducted and carried on in privacy and in which all of the books, records, and files pertaining to mortgage loan transactions relating to borrowers in this State are maintained. However, the Commissioner may, by rule, impose terms and conditions under which the records and files may be maintained outside of this State. A principal place of business shall not be located at an individual's home or residence.

(b) A mortgage banker or mortgage broker or mortgage servicer licensee shall report any change of address of the principal place of business or any branch office within 15 days after the change.

(c) Each mortgage broker or mortgage banker licensed under this Article shall display in plain public view the certificate of licensure issued by the Commissioner in its principal office and in each branch office. Each loan officer licensed under this Article shall ~~display~~ display, in plain public view, in each branch office in which the officer acts as a loan officer the certificate of licensure issued by the Commissioner."

SECTION 7. G.S. 53-243.10 reads as rewritten:

"§ 53-243.10. Mortgage broker ~~duties~~ duties; mortgage servicer duties.

(a) A mortgage broker, including any mortgage broker licensee and any person ~~required to be licensed~~ acting as a mortgage broker under this Article, ~~shall,~~ in addition to duties imposed by other statutes or at common law, shall do all of the following:

- (1) Safeguard and account for any money handled for the borrower.
- (2) Follow reasonable and lawful instructions from the borrower.
- (3) Act with reasonable skill, care, and diligence.
- (4) Make reasonable efforts to secure a loan that is reasonably advantageous to the borrower considering all the circumstances, including the rates, charges, and repayment terms of the loan.
- (5) Timely and clearly disclose to the borrower material information as specified by the Commission that may be expected to influence the borrower's decision and is reasonably accessible to the mortgage broker, including the total compensation the mortgage broker expects to receive from any and all sources in connection with each loan option presented to the borrower.
- (6) Notify before closing each lender of the particulars of each of the other lender's loans if the mortgage broker knows that more than one mortgage loan will be made by different lenders contemporaneously to a borrower secured by the same real property.
- (7) Ensure that any services offered to any applicant shall be available and offered to all similarly situated applicants on an equal basis.
- (8) In transactions where the broker has the ability to make credit decisions, use reasonable means to provide the borrower with prompt credit decisions on its loan applications and, where the credit is denied,

to comply fully with the notification requirements of applicable state and federal law.

- (9) Ensure that ~~its~~ advertising materials are designed to make customers and potential customers aware that ~~one~~ the mortgage broker does not discriminate on any prohibited basis.

(b) A mortgage servicer licensed or acting under this Article, in addition to duties imposed by other statutes or at common law, shall do all of the following:

- (1) Safeguard and account for any money handled for the borrower.
- (2) Follow reasonable and lawful instructions from the borrower.
- (3) Act with reasonable skill, care, and diligence.
- (4) With its application and renewal and with its supplemental filings made from time to time, file with the Commissioner a complete, current schedule of the ranges of costs and fees it charges borrowers for its servicing-related activities.
- (5) File with the Commissioner upon request a report in a form and format acceptable to the Commissioner detailing the servicer's activities in this State, including:
 - a. The number of mortgage loans the servicer is servicing.
 - b. The type and characteristics of such loans in this State.
 - c. The number of serviced loans in default, along with a breakdown of 30-, 60-, and 90-day delinquencies.
 - d. Information on loss mitigation activities, including details on workout arrangements undertaken.
 - e. Information on foreclosures commenced in this State.
- (6) At the time a servicer accepts assignment of servicing rights for a mortgage loan, the servicer shall disclose to the borrower all of the following:
 - a. Any notice required by RESPA or by regulations promulgated thereunder.
 - b. A schedule of the ranges and categories of its costs and fees for its servicing-related activities, which shall comply with North Carolina law and which shall not exceed those reported to the Commissioner.
 - c. A notice in a form and content acceptable to the Commissioner that the servicer is licensed by the Commissioner and that complaints about the servicer may be submitted to the Commissioner.
 - d. Any notice required by Article 2A, Article 4, or Article 10 of Chapter 45 of the General Statutes.
- (7) In the event of a delinquency or other act of default on the part of the borrower, the servicer shall act in good faith to inform the borrower of the facts concerning the loan and the nature and extent of the delinquency or default, and, if the borrower replies, to negotiate with the borrower, subject to the servicer's duties and obligations under the mortgage servicing contract, if any, to attempt a resolution or workout to the delinquency."

SECTION 8. G.S. 53-243.11 reads as rewritten:

"§ 53-243.11. Prohibited activities.

In addition to the activities prohibited under other provisions of this Article, it shall be unlawful for any person in the course of any mortgage loan transaction:

- (1) To misrepresent or conceal the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan, or to pursue a course of misrepresentation through agents or otherwise.
- (2) To refuse improperly to issue a satisfaction of a mortgage.
- (3) To fail to account for or to deliver to any person any funds, documents, or other thing of value obtained in connection with a mortgage loan, including money provided by a borrower for a real estate appraisal or a credit report, which the mortgage banker, servicer, broker, or loan officer is not entitled to retain under the circumstances.
- (4) To pay, receive, or collect in whole or in part any commission, fee, or other compensation for brokering a mortgage loan in violation of this Article, including a mortgage loan brokered by any unlicensed person other than an exempt person.
- (5) To charge or collect any fee or rate of interest or to make or broker or service any mortgage loan with terms or conditions or in a manner contrary to the provisions of ~~Chapter 24~~ Chapter 24, Chapter 45, or Chapter 54 of the General Statutes.
- (6) To advertise mortgage loans, including rates, margins, discounts, points, fees, commissions, or other material information, including material limitations on the loans, unless the person is able to make the mortgage loans available to a reasonable number of qualified applicants.
- (7) To fail to disburse funds in accordance with a written commitment or agreement to make a mortgage loan.
- (8) To engage in any transaction, practice, or course of business that is not in good faith or fair dealing or that constitutes a fraud upon any person, in connection with the brokering or making or servicing of, or purchase or sale of, any mortgage loan.
- (9) To fail promptly to pay when due reasonable fees to a licensed appraiser for appraisal services that are:
 - a. Requested from the appraiser in writing by the mortgage broker or mortgage banker or an employee of the mortgage broker or mortgage banker; and
 - b. Performed by the appraiser in connection with the origination or closing of a mortgage loan for a customer or the mortgage broker or mortgage banker.
- (10) To broker a mortgage loan that contains a prepayment penalty if the principal amount of the loan is one hundred fifty thousand dollars (\$150,000) or less or if the loan is a rate spread home loan as defined in G.S. 24-1.1F.
- (11) To improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. Nothing in this subdivision shall be construed to prohibit a mortgage ~~broker or mortgage banker~~

- broker, mortgage banker, or mortgage servicer from asking the appraiser to do one or more of the following:
- a. Consider additional appropriate property information.
 - b. Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
 - c. Correct errors in the appraisal report.
- (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.
 - (13) To broker a rate spread adjustable rate mortgage loan without disclosing to the borrower the terms and costs associated with a fixed rate loan from the same lender at the lowest annual percentage rate for which the borrower qualifies.
 - (14) To fail to comply with applicable federal laws and regulations related to mortgage ~~lending~~, lending, or mortgage servicing.
 - (15) To engage in unfair, misleading, or deceptive advertising related to a solicitation for a mortgage loan.
 - (16) For a mortgage servicer to fail to comply with the mortgage servicer's obligations under Article 10 of Chapter 45 of the North Carolina General Statutes.
 - (17) For a person acting as a mortgage servicer to fail to provide written notice to a borrower upon taking action to place hazard, homeowner's, or flood insurance on the mortgaged property or to place such insurance when the person acting as a mortgage servicer knows or has reason to know that such insurance is in effect.
 - (18) For a person acting as a mortgage servicer to place hazard, homeowner's, or flood insurance on a mortgaged property for an amount that exceeds either the value of the insurable improvements or the last known coverage amount of insurance.
 - (19) For a person acting as a mortgage servicer to fail to provide to the borrower a refund of unearned premiums paid by a borrower or charged to the borrower for hazard, homeowner's, or flood insurance placed by a lender if the borrower provides reasonable proof that the borrower has obtained coverage such that the forced placement is no longer necessary and the property is insured. If the borrower provides reasonable proof within 12 months of the placement that no lapse in coverage occurred such that the forced placement was not necessary, the servicer shall refund the entire premium.
 - (20) For a person acting as a mortgage servicer to refuse to reinstate a delinquent loan upon a tender of payment made timely under the contract which is sufficient in amount, based upon the last written statement received by borrower, to pay all past due amounts, outstanding or overdue charges, and restore the loan to a nondelinquent status, but this reinstatement shall be available to a borrower no more than twice in any 24-month period.

- (21) For a person acting as a mortgage servicer to fail to mail, at least 45 days before foreclosure is initiated, a notice addressed to the borrower at the borrower's last known address with the following information:
- a. An itemization of all past due amounts causing the loan to be in default.
 - b. An itemization of any other charges that must be paid in order to bring the loan current.
 - c. A statement that the borrower may have options available other than foreclosure, and that the borrower may discuss such options with the mortgage lender, the servicer, or a counselor approved by the U.S. Department of Housing and Urban Development.
 - d. The address, telephone number, and other contact information for the mortgage lender, the servicer, or the agent for either of them who is authorized to attempt to work with the borrower to avoid foreclosure.
 - e. The name, address, telephone number, and other contact information for one or more HUD-approved counseling agencies operating to assist borrowers in North Carolina to avoid foreclosure.
 - f. The address, telephone number, and other contact information for the consumer complaint section of the Office of the Commissioner of Banks.
- (22) To fail to make all payments from any escrow account held for the borrower for insurance, taxes, and other charges with respect to the property in a timely manner so as to ensure that no late penalties are assessed or other negative consequences result regardless of whether the loan is delinquent unless there are not sufficient funds in the account to cover the payments, and the servicer has a reasonable basis to believe that recovery of the funds will not be possible."

SECTION 9. G.S. 53-243.12 reads as rewritten:

"§ 53-243.12. Disciplinary authority.

(a) The Commissioner may, by order, deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant under this Article or may restrict or limit the activities relating to mortgage loans of any licensee or any person who owns an interest in or participates in the business of a licensee, if the Commissioner finds both of the following:

- (1) That the order is in the public interest.
- (2) That any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan officer, limited loan officer, ~~managing principal~~, qualifying individual, 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,~~ or financial services or a financial services-related business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses.
- 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,~~ broker, mortgage banker, or mortgage servicer.
- 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~~ brokerage, mortgage banking, or mortgage-servicing 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,~~ broker, mortgage servicer, 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 or mortgage servicer 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.
- j. Has falsely certified attendance or completion of hours at an approved mortgage lending continuing education course.

(b) The Commissioner may, by order, summarily postpone or suspend the license of a licensee pending final determination of any proceeding under this section. Upon entering the order, the Commissioner shall promptly notify the applicant or licensee that the order has been entered and the reasons for the order. The Commissioner shall calendar a hearing within 15 days after the Commissioner receives a written request for a hearing. If a licensee does not request a hearing and the Commissioner does not request a hearing, the order will remain in effect until it is modified or vacated by the

Commissioner. If a hearing is requested or ordered by the Commissioner, after notice of and opportunity for hearing, the Commissioner may modify or vacate the order or extend it until final determination.

(c) The Commissioner may, by order, impose a civil penalty upon a licensee or any partner, officer, director, or other person occupying a similar status or performing similar functions on behalf of a licensee for any violation of this Article. The civil penalty shall not exceed ten thousand dollars (\$10,000) for each violation of this Article by a mortgage ~~broker or mortgage banker~~, broker, mortgage banker, or mortgage servicer. The Commissioner may impose a civil penalty of up to ten thousand dollars (\$10,000) for each violation of this Article by a person other than a licensee or exempt person.

(d) In addition to other powers under this Article, upon finding that any action of a person is in violation of this Article, the Commissioner may order the person to cease from the prohibited action. If the person subject to the order fails to appeal the order of the Commissioner in accordance with G.S. 53-243.03, or if the person appeals and the appeal is denied or dismissed, and the person continues to engage in the prohibited action in violation of the Commissioner's order, the person shall be subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation of the Commissioner's order. The penalty provision of this section shall be in addition to and not in lieu of any other provision of law applicable to a licensee for the licensee's failure to comply with an order of the Commissioner.

(e) Unless otherwise provided, all actions and hearings under this Article shall be governed by Chapter 150B of the General Statutes.

(f) When a licensee is accused of any act, omission, or misconduct that would subject the licensee to disciplinary action, the licensee, with the consent and approval of the Commissioner, may surrender the license and all the rights and privileges pertaining to it for a period of time established by the Commissioner. A person who surrenders a license shall not be eligible for or submit any application for licensure under this Article.

(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.

(h) The Commissioner may issue subpoenas to require the attendance of and to examine under oath all persons whose testimony the Commissioner deems relative to the person's business.

(i) The Commissioner may from time to time, at the expense of the ~~Commissioner's office, licensee,~~ conduct routine examinations of the books and records of any licensee in order to determine the compliance with this Article and any rules adopted pursuant to the authority of G.S. 53-243.04.

(j) In addition to the rights described under this section, the Commissioner may require a licensee to pay to a borrower or other individual any amounts received by the licensee or its employees in violation of Chapter 24 of the General Statutes, or, if a servicer, in excess of those allowed by law to servicers.

(k) If the Commissioner finds that the ~~managing principal, qualifying individual,~~ 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 principal, qualifying individual,~~ or loan officer from serving as a branch manager, ~~managing principal, qualifying individual,~~ or loan officer for any period of time the Commissioner deems necessary.

(l) In addition to the authority to require criminal history background checks as set forth in G.S. 53-243.05 and G.S. 53-243.06, the Commissioner shall have the authority to require a criminal history background check at any other time as a condition of continued licensure. Upon the request of the Commissioner, a licensee shall furnish to the Commissioner the licensee's consent to a criminal history record check and a set of the licensee's fingerprints in a form acceptable to the Commissioner. Refusal to consent to a criminal history record check under this subsection may constitute grounds for the Commissioner to suspend or revoke the license of the licensee.

(m) Subject to the provisions of G.S. 53-243.03, the Commissioner may, by order, prohibit licensees under this Article from engaging in acts and practices in connection with mortgage loans that the Commissioner finds to be unfair, deceptive, designed to evade the laws of this State, or that are not in the best interest of the borrowing public.

(n) In the event the Commissioner shall have evidence that a material violation of law has occurred in the origination or servicing of a loan then being foreclosed or then delinquent and in threat of foreclosure, and that the putative violation would be sufficient in law or equity to base a claim or affirmative defense which would affect the validity or enforceability of the underlying contract or the right to foreclose, then the Commissioner may notify the Clerk of Superior Court, and the Clerk shall suspend foreclosure proceedings on the mortgage for 60 days from the date of the notice. In the event that the Commissioner notifies the Clerk, the Commissioner shall also notify the servicer, if known, and provide an opportunity to cure the violation or provide information to the Commissioner to rebut the evidence of the suspected violation. If the violation is cured or the information satisfies the Commissioner that no material violation has occurred, the Commissioner shall notify the Clerk so that the foreclosure proceeding may be resumed.

(o) The Commissioner shall be deemed to have complied with the requirements of law concerning service of process upon mailing by certified mail any notice required or permitted to a licensee under this Article, postage prepaid and addressed to the last known address of the licensee on file with the Commissioner pursuant to G.S. 53-243.13(d).

(p) The Commissioner is authorized to take action, including suspension of the license, if the licensee fails to respond within 20 days, or within a lesser time if specifically requested for good cause, to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed against the licensee which allege or appear to involve violation of this Article or any law or rule affecting the mortgage lending business.

(q) The Commissioner is authorized to take action, including suspension of the license, if the licensee fails to respond within 20 days, or within a lesser time if specifically requested for good cause, to and cooperate fully with notices from the Commissioner or the Commissioner's designee relating to the scheduling and conducting of an examination or investigation under this Article."

SECTION 10. G.S. 53-243.13(e) reads as rewritten:

"(e) A licensee shall maintain in a segregated escrow fund or trust account any funds which come into the licensee's possession, but which are not the licensee's property and which the licensee is not entitled to retain under the circumstances. The escrow fund or trust account shall be held on deposit in a federally insured financial institution. Individual loan applicants' or borrowers' accounts may be aggregated into a common trust fund so long as (i) interests in the common fund can be individually tracked and accounted for, and (ii) the common fund is kept separate from and is not commingled with the licensee's own funds."

SECTION 11. G.S. 53-243.14 reads as rewritten:

"§ **53-243.14. Criminal penalty.**

A violation of G.S. 53-243.02 is a ~~Class I felony.~~ Class 3 misdemeanor. Each transaction involving the unlawful making or brokering or servicing of a mortgage loan is a separate offense."

SECTION 12. G.S. 53-243.15 reads as rewritten:

"§ **53-243.15. Filing required for exempt persons; civil penalty.**

(a) All exempt persons described in G.S. ~~53-243.01(8)~~53-243.01(12) who are engaged in the mortgage brokerage or mortgage banking business on October 1, 2002, or who are engaged in the mortgage-servicing business on October 1, 2008, shall be required to file a form with the Commissioner on or before that date. All exempt persons, who commence mortgage brokerage or mortgage banking business in this State after October 1, 2002, or who commence mortgage servicing in this State after October 1, 2008, shall file the form with the Commissioner upon commencement of the business. This form, prescribed by the Commissioner, shall contain all of the following information:

- (1) The name of the respective exempt person.
- (2) The basis of the exempt status of the exempt person.
- (3) The principal business address of the exempt person.
- (4) The State or federal regulatory authority responsible for the exempt person's supervision, examination, or regulation, if any.

(b) In addition to any other measures the exempt person may be subject to under this Article, failure by an exempt person to file the required form shall not affect the exempt status of the person. However, the exempt person shall be subject to a civil penalty set by the Commissioner that shall not exceed the sum of two hundred fifty dollars (\$250.00) for each year the form is not filed. No person required to file under this section may transact business in this State as a mortgage banker or mortgage broker or mortgage servicer unless the person has filed the prescribed form with the Commissioner in accordance with this section.

(c) The filing requirements of this section shall not apply to the individual employees of an exempt person."

SECTION 13. G.S. 53-243.16(b) reads as rewritten:

"(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~~ qualifying individual or a branch manager of that person."

SECTION 14. G.S. 53-243.17(c) reads as rewritten:

"(c) Notwithstanding any other provision of this section, the Commissioner retains full authority and discretion under this Article to license mortgage brokers, mortgage bankers, mortgage servicers, loan officers, and limited loan officers and to enforce this Article to its fullest extent. Nothing in this section shall be deemed to be a reduction or derogation of that authority and discretion."

SECTION 15. G.S. 24-1.1E(a)(4a) reads as rewritten:

"(4a) 'Mortgage broker' is as defined in G.S. ~~53-243.01(14)~~.53-243.01."

SECTION 16. G.S. 24-1.1F(a)(4) reads as rewritten:

"(4) Mortgage broker. – A mortgage broker as defined in G.S. ~~53-243.01(14)~~.53-243.01."

SECTION 17. G.S. 66-106(b) reads as rewritten:

"(b) Except for mortgage loans as defined in G.S. ~~53-243.01(15)~~.53-243.01, this Article shall not apply to any party approved as a mortgagee by the Secretary of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, a National Mortgage Association or any federal agency; nor to any party currently designated and compensated by a North Carolina licensed insurance company as its agent to service loans it makes in this State; nor to any insurance company registered with and licensed by the North Carolina Insurance Commissioner; nor, with respect to residential mortgage loans, to any residential mortgage banker or mortgage broker licensed pursuant to Article 19A of Chapter 53 of the General Statutes or exempt from licensure pursuant to G.S. ~~53-243.01(8)~~.53-243.01(12) and G.S. 53-243.02; nor to any attorney-at-law, public accountant, or dealer registered under the North Carolina Securities Act, acting in the professional capacity for which such attorney-at-law, public accountant, or dealer is registered or licensed under the laws of the State of North Carolina. Provided further that subdivision (1)(ii) above shall not apply to any lender whose loans or advances to any person, firm or corporation in North Carolina aggregate more than one million dollars (\$1,000,000) in the preceding calendar year."

SECTION 18. Chapter 45 of the General Statutes is amended by adding a new section to read:

§ 45-21.16B. Suspension of foreclosure proceedings.

(a) The Clerk of Superior Court shall suspend foreclosure proceedings, including any hearing or order for sale, for 60 days if notified by the Commissioner of Banks as provided in G.S. 53-243.12(n). During the suspension period, all deadlines under this Article are tolled.

(b) When a clerk enters a suspension order pursuant to subsection (a) of this section prior to a hearing required under G.S. 45-21.16, upon completion of the 60-day suspension period, the trustee or mortgagee may proceed with the hearing by providing written notice to all parties of the new hearing date, not less than 10 days prior to the hearing date.

(c) When a clerk enters a suspension order pursuant to subsection (a) of this section, after entry of any authorization by the clerk pursuant to G.S. 45-21.16 and before the expiration of the 10-day upset bid period, the trustee or mortgagee shall not be required to comply with the provisions of G.S. 45-21.16, but shall advertise and hold the sale in accordance with G.S. 45-21.16A, 45-21.17, and 45-21.17A."

SECTION 19. G.S. 45-91 reads as rewritten:

"§ 45-91. (Effective April 1, 2008) Assessment of fees; processing of payments; publication of statements.

A servicer must comply as to every home loan, regardless of whether the loan is considered in default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the following requirements:

- (1) Any fee that is incurred by a servicer shall be both:
 - a. Assessed within 45 days of the date on which the fee was incurred. Provided, however, that attorney or trustee fees and costs incurred as a result of a foreclosure action shall be assessed within 45 days of the date they are charged by either the attorney or trustee to the servicer.
 - b. Explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last known address at least 30 days after assessing the fee, provided the servicer shall not be required to take any action in violation of the provisions of the federal bankruptcy code.
- (2) All amounts received by a servicer on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, within one business day of the date received, provided that the borrower has made the full contractual payment and has provided sufficient information to credit the account. If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date. Provided, however, that if any payment is received and not credited, or treated as credited, the borrower shall be notified within 10 business days by mail at the borrower's last known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.
- (3) Failure to charge the fee or provide the information within the allowable time and in the manner required under subdivision (1) of subsection (a) of this section constitutes a waiver of such fee.
- (4) All fees charged by a servicer must be otherwise permitted under applicable law and the contracts between the parties. Nothing herein is intended to permit the application of payments or method of charging interest which is less protective of the borrower than the contracts between the parties and other applicable law.
- (5) The obligations of mortgage servicers set forth in G.S. 53-243.11."

SECTION 20. G.S. 45-94 reads as rewritten:

"§ 45-94. (Effective April 1, 2008) Remedies.

In addition to any equitable remedies and any other remedies at law, any borrower injured by any violation of this Article may bring an action for recovery of actual damages, including reasonable attorneys' fees. The Commissioner of Banks, the Attorney General, or any party to a home loan may enforce the provisions of this section. The Clerk of Superior Court shall also suspend foreclosure proceedings for 60 days if notified by the Commissioner of Banks as provided in G.S. 53-243.12(n). With the exception of an action by the Commissioner of Banks or the Attorney General, at least 30 days before a borrower or a borrower's representative institutes a civil action for

damages against a servicer for a violation of this Article, the borrower or a borrower's representative shall notify the servicer in writing of any claimed errors or disputes regarding the borrower's home loan that forms the basis of the civil action. The notice must be sent to the address as designated on any of the servicer's bills, statements, invoices, or other written communication, and must enable the servicer to identify the name and loan account of the borrower. For purposes of this section, notice shall not include a complaint or summons. Nothing in this section shall limit the rights of a borrower to enjoin a civil action, or make a counterclaim, cross-claim, or plead a defense in a civil action. A servicer will not be in violation of this Article if the servicer shows by a preponderance of evidence that:

- (1) The violation was not intentional or the result of bad faith; and
- (2) Within 30 days after discovering or being notified of an error, and prior to the institution of any legal action by the borrower against the servicer under this section, the servicer corrected the error and compensated the borrower for any fees or charges incurred by the borrower as a result of the violation."

SECTION 21. Sections 12 and 21 of this act become effective when it becomes law. Subsection (n) of G.S. 53-243.12, as amended by Section 9, Section 18, and Section 20 of this act, become effective January 1, 2009, and apply to foreclosure proceedings filed on or after that date. The remainder of this act becomes effective January 1, 2009, and applies to anyone engaged in the business of mortgage servicing on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2008.

Became law upon approval of the Governor at 10:13 p.m. on the 17th day of August, 2008.

Session Law 2008-229

H.B. 2167

AN ACT TO INCREASE THE WIDTH OF BOATS THAT MAY BE TRANSPORTED ON HIGHWAY ROUTES DURING THE DAY AND NIGHT WITHOUT A PERMIT AND TO PROVIDE FOR AN ANNUAL PERMIT AS OPPOSED TO A SINGLE TRIP PERMIT FOR OVERSIZE BOATS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-116 is amended by adding a new subsection to read:

"§ 20-116. **Size of vehicles and loads.**

...

(m) Notwithstanding subsection (a) of this section, a boat or boat trailer with an outside width of less than 120 inches may be towed without a permit. The towing of a boat or boat trailer 102 inches to 114 inches in width may take place on any day of the week, including weekends and holidays, and may take place at night. The towing of a boat or boat trailer 114 inches to 120 inches in width may take place on any day of the week, including weekends and holidays from sun up to sun down. A boat or boat trailer in excess of 102 inches but less than 120 inches must be equipped with a minimum of two operable amber lamps on the widest point of the boat and the boat trailer such that the dimensions of the boat and the boat trailer are clearly marked and visible."

SECTION 2. G.S. 20-119(g) reads as rewritten:

"§ 20-119. Special permits for vehicles of excessive size or weight; fees.

...
 (g) The Department of Transportation shall issue annual overwidth permits for the following: vehicles

- (1) A vehicle carrying agricultural equipment or machinery from the dealer to the farm or from the farm to the dealer that ~~do~~ does not exceed 14 feet in width. ~~These permits shall be~~ A permit issued under this subdivision is valid for unlimited movement without escorts on all State highways where the overwidth ~~vehicles do~~ vehicle does not exceed posted bridge and load limits.
- (2) A boat or boat trailer whose outside width equals or exceeds 120 inches. A permit issued under this subdivision must restrict a vehicle's towing of the boat or boat trailer to daylight hours only."

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, 2008.

Became law notwithstanding the objections of the Governor, 11:39 a.m. this 27th day of August, 2008.

**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 2167	AN ACT TO INCREASE THE WIDTH OF BOATS THAT MAY BE TRANSPORTED ON HIGHWAY ROUTES DURING THE DAY AND NIGHT WITHOUT A PERMIT AND TO PROVIDE FOR AN ANNUAL PERMIT AS OPPOSED TO A SINGLE TRIP PERMIT FOR OVERSIZE BOATS.

Veto Message for House Bill 2167



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY
GOVERNOR

August 17, 2008

GOVERNOR'S OBJECTIONS AND VETO MESSAGE

House Bill 2167, "An act to increase the width of boats that may be transported on highway routes during the day and night without a permit and to provide for an annual permit as opposed to a single trip permit for oversize boats."

House Bill 2167, allows extremely large boats as wide as 9-1/2 feet to be towed on any state road at anytime, including night time, any day of the week, without a permit as required by all other states from Texas to Virginia. This bill would also allow a blood alcohol level of .08, double that allowed by commercial vehicles of smaller size.

I sincerely believe that this bill puts families at a risk on the highways and would result in death or serious injury. North Carolina has 60,000 miles of narrow two lane roads that cannot accommodate the 9-1/2 foot width and maintains roughly 1,000 bridges 18-foot wide or less, which would require a 9-1/2 foot boat to cross the center line in violation of N.C.G.S. 20-146, and into oncoming traffic. Further, if two 9-1/2 foot boats were to meet on an 18-foot strip of road or bridge it would be physically impossible to escape a collision.

I am deeply concerned about 9-1/2 foot boats meeting a school bus. The buses travel primarily on rural roads and often in the dark during early morning and early evening hours.

I encourage the General Assembly to let boat haulers use the current law of permitting for the rest of this season and then have the legislature take up this issue in January when there is time to thoughtfully avoid the consequences of this bill.

Therefore, I veto the bill.

Handwritten signature of Michael F. Easley in black ink.
Michael F. Easley

The bill, having been vetoed, is returned to the Clerk of the North Carolina House of Representatives on this the 17th day of August 2008 at _____ for reconsideration by that body.

Handwritten signature of Dennis Weeks in black ink, with "8:45pm" written next to it.
RECEIVED FROM GOVERNOR

AUG 17 2008

RESOLUTIONS
OF THE
STATE OF NORTH CAROLINA

EXTRA SESSION 2008
REGULAR SESSION 2008

Resolution 2008-1

S.J.R. 2

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2008 EXTRA SESSION.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When the House of Representatives and the Senate, constituting the 2008 Extra Session of the General Assembly, do adjourn on Thursday, March 20, 2008, they stand adjourned sine die.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of March, 2008.

Resolution 2008-2

S.J.R. 1580

A JOINT RESOLUTION HONORING NORTH CAROLINA VETERANS DURING OBSERVANCE OF VETERANS DAY AT THE NORTH CAROLINA GENERAL ASSEMBLY WITH PARTICULAR EMPHASIS ON RECOGNIZING THE MEN AND WOMEN WHO SERVED DURING THE KOREAN WAR.

Whereas, North Carolina is proud to be home to more than 110,000 military personnel and nearly 770,000 veterans of our nation's armed forces; and

Whereas, on behalf of the State of North Carolina, the General Assembly wishes to express its gratitude to all current and retired military personnel for their service to the United States, especially to those who have made the ultimate sacrifice for the safety and freedoms of all Americans; and

Whereas, the Korean War began on June 25, 1950, when North Korea invaded South Korea with approximately 90,000 troops, later joined by more than 300,000 communist Chinese troops; and

Whereas, within days, the United States armed forces joined United Nations forces in South Korea; and

Whereas, the United States suffered 54,246 casualties during the Korean War, including over 36,568 killed; and

Whereas, of the Americans who lost their lives, more than 800 were North Carolinians; and

Whereas, over 100,000 Americans were wounded and no fewer than 7,000 Americans were either listed as missing in action or prisoners of war during that period; and

Whereas, as of the year 2000, there were more than 100,000 Korean War veterans living in North Carolina; and

Whereas, the Congressional Medal of Honor was awarded to three Korean War veterans from North Carolina; and

Whereas, the Korean War is often referred to as the "Forgotten War," but it is important to educate the citizens of this State about the contributions and sacrifices the men and women of our armed forces and their families made to uphold the principles of democracy and freedom during that war; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of the members of the armed forces who gave their lives in defense of the safety and liberty of the people of the United States.

SECTION 2. The General Assembly expresses its profound gratitude and appreciation to all of North Carolina's veterans past and present for the service they have rendered to our nation and to our State with particular emphasis on recognizing the men and women who served in the Korean War for their selfless service to the United States.

SECTION 3. The General Assembly wishes to honor the memory of those who made the ultimate sacrifice during the Korean War, including Lawrence Ellerbe Hunt, Private First Class of the 38th Infantry Regiment, 2nd Infantry Division, who was born in Pleasant Garden, North Carolina, to Charles and Frances "Fannie" Hunt in 1925 and was killed in action near Wanju, South Korea, on February 13, 1951.

SECTION 4. The Secretary of State shall transmit a certified copy of this resolution to the family of Lawrence Ellerbe Hunt and to the North Carolina Veterans Council, Inc.

SECTION 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of May, 2008.

Resolution 2008-3

S.J.R. 1578

A JOINT RESOLUTION PROVIDING THAT THE GENERAL ASSEMBLY SHALL MEET IN GREENSBORO, NORTH CAROLINA, AT NORTH CAROLINA A&T STATE UNIVERSITY IN HONOR OF GREENSBORO'S BICENTENNIAL ANNIVERSARY.

Whereas, the North Carolina Constitution states that the General Assembly may jointly adjourn to any other place; and

Whereas, the General Assembly has been invited to convene in Greensboro, North Carolina, on May 22, 2008, to commemorate Greensboro's Bicentennial anniversary; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. On May 22, 2008, the General Assembly shall convene at 11:00 A.M. in Greensboro at North Carolina A&T State University in honor of the Greensboro Bicentennial anniversary.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of May, 2008.

Resolution 2008-4

H.J.R. 249

A JOINT RESOLUTION HONORING THE LIVES AND ACHIEVEMENTS OF LOUIS ROUND WILSON, SUSAN GREY AKERS, AND FREDERICK G. KILGOUR OF THE SCHOOL OF INFORMATION AND LIBRARY SCIENCE, THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, ON THE 75TH ANNIVERSARY OF ITS FOUNDING.

Whereas, on September 17, 1931, Dr. Louis Round Wilson opened at the University of North Carolina at Chapel Hill a School of Library Science devoted to the preparation of library and knowledge professionals; and

Whereas, Dr. Susan Grey Akers, the first woman dean at the University of North Carolina at Chapel Hill, assumed leadership of the School in 1932, and served librarianship and the University for more than 20 years; and

Whereas, Frederick G. Kilgour, visionary founder of OCLC Online Computer Library Center, Inc. (initially known as the Ohio College Library Center), the leading global library cooperative, served as a distinguished research professor at the School of Information and Library Science from 1990 until his death in 2006; and

Whereas, free and wide access to knowledge for education, research, professional service, and the delights of reading remain essential to democracies, cultures, industries, and governments around the world; and

Whereas, the vision of Dr. Wilson and Dr. Akers continues to guide the mission and values of the School, its faculty, and its students; and the achievements of Frederick G. Kilgour epitomize the School's values of public learning, shared information, and the stewardship of treasured knowledge; and

Whereas, the School has been consistently recognized as the foremost institution of its kind in the United States of America, and has contributed distinguished information professionals to the institutions of North Carolina, the nation, and the world; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the lives and achievements of Louis Round Wilson, Susan Grey Akers, and Frederick G. Kilgour, and their respective legacies embodied in the School of Information and Library Science at the University of North Carolina at Chapel Hill.

SECTION 2. The General Assembly congratulates the School of Information and Library Science on the 75th anniversary of its vision, teaching, scholarship, service, and advocacy for the information professions.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the President of The University of North Carolina.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of May, 2008.

Resolution 2008-5

H.J.R. 2263

A JOINT RESOLUTION RECOGNIZING THE OUTSTANDING ACHIEVEMENTS OF THE PERSON HIGH SCHOOL GIRLS' VOLLEYBALL TEAM.

Whereas, the Person High School Rockets girls' volleyball team won the North Carolina High School Athletic Association's (NCHSAA) 4-A Girls' State Championship on November 3, 2007, by defeating the Charlotte Meyers Park Mustangs; and

Whereas, this victory gave the Lady Rockets volleyball team its second consecutive State championship having also won in 2006; and

Whereas, during 2005, 2006, and 2007, the Lady Rockets volleyball team appeared in three consecutive State championship finals, was named East Regional and Piedmont Athletic Conference champions three times, and compiled an impressive record of 79-4, including a regular season record of 42-0; and

Whereas, the Lady Rockets volleyball team is the first Person County high school team to win a State championship in athletic competition; and

Whereas, the Lady Rockets volleyball team owes much of its success to head coach Sandy Mathews who has served as a coach for 21 years; and

Whereas, the achievements of the Lady Rockets volleyball team are a fitting testimonial and memorial to former Person County School Superintendents R.B. Griffin and Walter Rogers, Principal Jerry L. Hester, and Principal and Coach Henry Eily; and

Whereas, the Lady Rockets' successful volleyball program has brought great honor and distinction to the State and deserves recognition; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly congratulates the Person High School Lady Rockets on winning the 2006 and 2007 NCHSAA 4-A State Volleyball Championship and recognizes the achievements of the 2007 team members: Katie Blaylock, Ashley Clayton, Paige Cox, Heather McCarter, Casey Raymer, Rachel Reeves, Jordan Rhew, Amanda Robertson, Katie Tatum, Megan Tatum, Tara Whitfield, and Sara Wrenn; head coach Sandy Mathews; assistant coaches Jennifer Taylor, Micholene Schumacher, and Lynn Ward; parents; and fans who were instrumental in helping the team succeed.

SECTION 2. The General Assembly honors the memory of R.B. Griffin, Walter Rogers, Jerry L. Hester, and Henry Eily for their contributions to the education system and athletic programs of the Person County schools.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Person High School Principal Margaret Bradsher and to the families of R.B. Griffin, Walter Rogers, Jerry L. Hester, and Henry Eily.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of May, 2008.

Resolution 2008-6

H.J.R. 2274

A JOINT RESOLUTION RECOGNIZING THE BICENTENNIAL OF HAYWOOD COUNTY AND HONORING JOHN HAYWOOD, FOR WHOM THE COUNTY IS NAMED.

Whereas, during the 1808 legislative session of the General Assembly, Representative Thomas Love of Buncombe County introduced a bill establishing a new county in the western portion of North Carolina; and

Whereas, the legislation passed on December 23, 1808, resulting in the formation of Haywood County; and

Whereas, Haywood County was named for John Haywood, who served as State Treasurer of North Carolina from 1787 to 1827; and

Whereas, Haywood County's rugged terrain features 19 mountain peaks over 6,000 feet above sea level; and

Whereas, Waynesville, the County's seat of government and the commercial and cultural capital of the Great Smoky Mountains, was named after Revolutionary War Hero "Mad" Anthony Wayne; and

Whereas, in Professor W. C. Allen's book, "The Annals of Haywood County," the last shot of the Civil War was fired on May 9, 1865, near Waynesville in Haywood County. The local Confederate forces, composed of Cherokee Indians and local citizens under the command of Colonel William H. Thomas ("Thomas's Legion") and Colonel John R. Love, had demanded the surrender of the federal forces of Colonel Bartlett of New York. They had apparently not heard of the surrender by General Robert E. Lee at Appomattox Courthouse, Virginia, on April 9, 1865. These Confederate forces then surrendered in Waynesville on May 10, 1865, and were the last forces of the Confederacy to surrender; and

Whereas, during the County's early history, much of its growth was as a result of the railroad's expansion into the area in 1882; and

Whereas, the State of North Carolina held its first annual summer teachers' institute at the White Sulphur Springs Hotel in Waynesville in 1884; and

Whereas, Champion Fibre Company's paper and pulp mill, founded by Peter G. Thomson, now known as Evergreen Packaging and employing 1,600 persons in Canton and Waynesville, began production in 1908 and is celebrating its centennial anniversary; and

Whereas, Lake Junaluska, a 1,200-acre United Methodist Assembly, was established in 1913 and now serves as the home of the Southeastern Jurisdiction of the United Methodist Church; and

Whereas, in 1926, the voters in Haywood County approved a \$100,000 bond issue to finance the first county-built public hospital in the State; and

Whereas, the citizens of Haywood County have made significant contributions to the social, cultural, political, and economic prosperity of the State of North Carolina; and

Whereas, Haywood County has been home to many great North Carolinians including: Governor Daniel K. Moore (1965-1969); Raymond Fairchild, a well-known banjo player and creator of the "Fairchild Style" banjo playing technique, who has entertained audiences around the world; Marc Pruett, a talented banjo player and Grammy Award winner, who is currently a member of the Balsam Range Bluegrass

Band; and Fred Chappell, an author, professor, and multiple literary award winner, who served as North Carolina's Poet Laureate from 1997 to 2002; and

Whereas, Colonel William Holland Thomas was one of the earliest and possibly the greatest lawyer and political figure in the history of Haywood County and was the first lobbyist. His character is central to the Charles Frazier book "Thirteen Moons." He was primarily responsible for the purchase of the Qualla Boundary, which was established as a reservation for the remaining members of the Cherokee Indians, known as the Eastern Band of the Cherokee Indians; and

Whereas, several Haywood County residents have served in Congress, including Felix Walker, James M. Gudger Jr., William T. Crawford, James M. Moody, and Heath Shuler; and

Whereas, Judge Felix Eugene Alley (1873-1957) is considered to be the most well-known judge from Haywood County. He held court all over North Carolina and was also the author of "Random Thoughts and Musings of a Mountaineer" and "What Think Ye of Christ?"; and

Whereas, the late Johnny M. Killian of Maggie Valley was a lawyer who advised Congress for more than 44 years on constitutional matters while serving as senior specialist in American public law at the Congressional Research Service, a branch of the Library of Congress; and

Whereas, Haywood County is home to "Folkmoot," the International Festival of Music and Dance; and

Whereas, Haywood County has within its boundaries four incorporated towns: Canton, Clyde, Maggie Valley – the clogging capital of the world – and Waynesville, which serves as the county seat; and

Whereas, Haywood County is the only county in the State that has a water supply that originates entirely within its boundaries; and

Whereas, Haywood County's natural beauty and proximity to the Great Smoky Mountains make it an ideal tourist destination; and

Whereas, Haywood County is known as a mecca for visitors year-round to attractions like Ghost Town in the Sky, The Cataloochee Ranch, the Great Smoky Mountains National Park, and the Cataloochie Ski Area; and

Whereas, Haywood County served as the setting for Asheville-born author, Charles Frazier's best-selling Civil War novel, "Cold Mountain," which was made into a movie in 2003; and

Whereas, Haywood County has continued to grow and prosper through the continued dedication, insight, and planning of the County's concerned leaders and citizens; and

Whereas, Haywood County has a population of more than 56,000 and is the third-largest county in Western North Carolina; and

Whereas, plans have been made to celebrate the County's bicentennial throughout the year during several community events; and

Whereas, Haywood County's bicentennial celebration is worthy of celebration and should be enjoyed and supported by all North Carolina citizens; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life and memory of John Haywood and expresses appreciation for the contributions he made to this State.

SECTION 2. The General Assembly congratulates Haywood County on its bicentennial and joins the County's citizens in celebrating this historic occasion.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Chair of the Board of Commissioners of Haywood County.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of May, 2008.

Resolution 2008-7

H.J.R. 2478

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE CITY OF GREENSBORO AS THE CITY OBSERVES ITS BICENTENNIAL.

Whereas, on March 25, 1808, representatives of Guilford County, including Charles Bruce, Hugh Forbis, Jacob Clap, William Armfield, David Caldwell Jr., George Swain, and Nathan Mendenhall, purchased land to serve as the new county seat for Guilford County from Ralph Gorrell for \$98.00; and

Whereas, on December 15, 1808, the General Assembly passed an act designating Greensborough as the county seat of Guilford County; and

Whereas, Greensborough was named for Nathanael Greene, a patriot of the Revolutionary War, who played a prominent role during the battle at Guilford Courthouse; and

Whereas, the original spelling of the city was changed from "Greensborough" to "Greensboro" during the late 1890s; and

Whereas, much of Greensboro's early growth was attributed to the railroad, which transformed the small town into a thriving urban center and earned it the nickname, "The Gate City"; and

Whereas, Greensboro's business legacy began with markets, shops, crafts and trades, then agriculture, textiles, furniture, and tobacco industries like Cone Mills and Burlington Industries became the backbone of the local economy with banking and insurance companies making their mark later; and

Whereas, over the years, Greensboro has broadened its economic base by branching out through companies like VF Corporation, AIG/United Guaranty, Lincoln Financial Group, AT&T, American Express, TIMCO, New Breed Corporation, Cone Health Systems, Gilbarco, RF Micro, United Health Care, Volvo, and Richardson Creative Leadership Center; and

Whereas, Greensboro families and businesses have a rich history of philanthropy that continues to grow and enhance the community; and

Whereas, while Greensboro grew economically, its citizens worked to resolve civil rights issues; and

Whereas, Greensboro served as the site of the 1960 Sit-Ins, which gave the national civil rights movement new momentum, inspiring sit-ins in 54 cities; and

Whereas, Greensboro's historical role in the civil rights movement will be commemorated in the future International Civil Rights Center and Museum, which will be located on the site of the 1960 Sit-Ins; and

Whereas, Greensboro has earned a reputation as a city of learning, serving as the location of Guilford Technical Community College, which offers programs to meet the needs of area employers and to prepare students for the workplace; the new Elon University School of Law, which adds another prestigious professional program to the area; and Greensboro College, Guilford College, Bennett College, the University of

North Carolina at Greensboro, and North Carolina Agricultural and Technical State University; and

Whereas, Guilford College, an independent coeducational institution established by Quakers and chartered in 1834, has the distinction of being among the few college campuses listed by the United States Department of the Interior as a National Historic District; and

Whereas, Greensboro College, a four-year, independent, coeducational institution founded in 1838, enrolls almost 1,300 students representing 27 states and 16 nations; and

Whereas, Bennett College, an independent women's college founded in 1873, has an enrollment of more than 600 students and offers several unique degree programs, including Womanist Religious Studies and Global Studies as well as dual degree programs with North Carolina Agricultural and Technical State University in various engineering programs; and

Whereas, the University of North Carolina at Greensboro, one of the three original institutions of The University of North Carolina, was chartered in 1891 as an educational facility for women and became a coeducational institution in 1964; and

Whereas, the University of North Carolina at Greensboro, with an annual enrollment of more than 17,150 students, offers undergraduate degrees in more than 100 areas of study and graduate degrees in more than 60 master's degree programs and doctoral degrees in 18 programs of study, including the Department of Counseling and Educational Development, which was ranked fourth in the nation by U.S. News and World Report in 2008 and the School of Education, which was ranked 73rd, and anticipates receiving more than \$37 million in research grants at the end of the current fiscal year; and

Whereas, North Carolina Agricultural and Technical State University, established in 1891 as a land-grant university, offers more than 99 undergraduate degree programs, more than 50 master's degree programs, and doctorates in mechanical, electrical, and industrial engineering, energy and environmental studies, and leadership studies; and currently has an enrollment of 10,150 students; and

Whereas, North Carolina Agricultural and Technical State University, a high research activity institution ranked third in the UNC System in research funding at \$41.5 million in 2007, has the largest School of Agriculture and Environmental Sciences among all historically black colleges and universities with six nationally accredited programs; and

Whereas, the University of North Carolina at Greensboro has been successful in contributing to Greensboro's economy through its Office of Technology Transfer, which has a mission to encourage innovation and disseminate knowledge; help commercializing discoveries developed by faculty, students and staff; and assist faculty in obtaining research support from corporate sponsors; and

Whereas, the North Carolina Agricultural and Technical State University's partnership with the United States Department of Agriculture's Natural Resources Conservation Service allowed for the relocation of a national technology center and a remote sensing lab to Greensboro, which produced 80 high-tech jobs for the city; and

Whereas, the Gateway University Research Park, a joint collaboration between North Carolina Agricultural and Technical State University and the University of North Carolina at Greensboro, was developed to support research and economic development within the Triad and, when fully completed, is expected to generate an economic impact of \$50 million per year within the region; and

Whereas, Greensboro is a city of more than 244,610 residents living in over 200 neighborhoods; and

Whereas, today, interstate highways, rail lines, and an international airport link Greensboro to regional, national, and global economies enabling the city to thrive as a major transportation hub for central North Carolina and the southeastern United States; and

Whereas, Greensboro continues to the present day to celebrate its rich cultural, religious, ethnic, and racial diversity; and

Whereas, Greensboro is committed to an outstanding quality of life built around its green spaces and healthy environment; and

Whereas, Greensboro's bicentennial is worthy of celebration; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the founders of the City of Greensboro for the contributions they made to the State of North Carolina.

SECTION 2. The General Assembly extends its congratulations to the City of Greensboro on its bicentennial and urges all North Carolinians to join the citizens of the City of Greensboro in celebrating its bicentennial.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the City of Greensboro and the Chairs of the Greensboro Bicentennial Commission.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of May, 2008.

Resolution 2008-8

H.J.R. 2791

A JOINT RESOLUTION HONORING THE MOUNT OLIVE COLLEGE BASEBALL TEAM ON BECOMING THE 2008 DIVISION II NATIONAL CHAMPIONS.

Whereas, on May 31, 2008, Mount Olive College's baseball team won the 2008 National Collegiate Athletic Association's (NCAA) Division II Baseball National Championship title, defeating Ouachita Baptist University by a score of 6-2; and

Whereas, the Trojans' victory earned the team its first-ever national title and the first national title in any sport for Mount Olive College; and

Whereas, the Trojans' victory is the first national title in baseball for a member of the Conference Carolina; and

Whereas, the Trojan baseball team was ranked number one in the nation throughout the regular season; and

Whereas, the Trojan baseball team went undefeated through the national championship, winning all four play-off games; and

Whereas, the Trojan baseball team set the school record for the number of wins in one season; and

Whereas, the Trojans ended their 2008 season with an overall record of 58-6 and were champions of the South Atlantic Regional tournament; and

Whereas, the success of the men's baseball program, along with the many academic achievements of the students, is part of a long-standing tradition of excellence at Mount Olive College; and

Whereas, these extraordinary accomplishments of the players and coaches of the men's baseball program bring great honor and distinction to the State of North Carolina and deserve recognition; and

Whereas, it is also fitting to recognize the Trojans' fans, who have always been an integral part of supporting the team; and

Whereas, one of the Trojan baseball program's most enthusiastic fans included the late Ray Scarborough, who played a major role in reinstating Mount Olive College's baseball program in the early 1980s and was instrumental in designing, constructing, and financing the baseball field, which was dedicated as Scarborough Field on April 19, 1980; and

Whereas, Ray Scarborough, a Mount Gilead native and Wake Forest University graduate, married Edna Martin of Mount Olive and was the father of two children, Beverly and Shirley. He played professional baseball as a pitcher for the Washington Senators from 1942 to 1950 and for the Chicago White Sox in 1950, where he was selected to the American League All-Star Team of 1950. He was traded to the Boston Red Sox in 1951 and the New York Yankees in 1952, where he was a member of the 1952 World Championship team; and

Whereas, the late James B. Hunt, Sr. was also an ardent supporter of Mount Olive College, who provided invaluable leadership as a member of the Board of Trustees from 1964 to 2003, during which time he served as Chair from 1974 to 1989 and as an honorary trustee from 1998 to 2003; and

Whereas, during his tenure on the Board of Trustees, James B. Hunt, Sr. saw student enrollment grow from 250 to 1,000 students, supported the college's development into a four-year institution, and established the Elsie Brame and James B. Hunt Family Endowment to help provide continuing support to the College; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly congratulates the Mount Olive College Trojans on winning the 2008 NCAA Division II Baseball National Championship and recognizes the achievements of the players: Patrick Ball, Craig Beasley, David Cooper, Weston Curles, Josh Harrison, Anthony Hernandez, Andy Hilliard, Casey Hodges, Dylan Holton, Todd Jeffreys, Kyle Jones, Mike Kicia, Jesse Lancaster, Erik Lovett, Jackson Massey, Thomas Newsome, Paul Novicki, Rich Racobaldo, Ryan Schlecht, Jason Sherrer, Tyler Smith, Alex Vertchnik, Airlon Vinson, Joseph Westbrook, Anthony Williams, and Michael Williams; Head Coach Carl Lancaster; Assistant Coaches Aaron Akin and Robb Watt; students; alumni; and support staff; all of whom were instrumental in helping the baseball team win its first national championship.

SECTION 2. The General Assembly wishes to honor the memory of Ray Scarborough and James B. Hunt, Sr. for their contributions to Mount Olive College.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Mount Olive College President Dr. J. William Byrd, Athletics Director Jeff Eisen, Head Baseball Coach Carl Lancaster, and the families of Ray Scarborough and James B. Hunt, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of June, 2008.

Resolution 2008-9

H.J.R. 2793

A JOINT RESOLUTION HONORING THE MEMBERS OF THE 1132ND MILITARY POLICE COMPANY OF THE NORTH CAROLINA NATIONAL GUARD.

Whereas, on June 16, 2007, the 1132nd Military Police Company of the North Carolina National Guard, with armories in Rocky Mount, Tarboro, and Mount Olive, departed for the Army mobilization site at Camp Shelby, Mississippi, prior to deploying to Southwest Asia in support of Operation Iraqi Freedom; and

Whereas, this deployment was the first time that many of the soldiers of the 1132nd would be assigned to a combat zone; and

Whereas, on September 12, 2007, the 1132nd, augmented by a platoon of soldiers from the New Hampshire National Guard, departed for Kuwait; and

Whereas, on September 29, 2007, the unit arrived at its Forward Operating Base (FOB) in Eastern Baghdad, where it fell under the operational control of Task Force 95th Military Police (TF 95th MP), part of the 18th Military Police Brigade; and

Whereas, as part of TF 95th MP, the soldiers of the 1132nd teamed with the Iraqi Police Service as Police Transition Teams (PTT), providing training and oversight of Iraqi Police operations; and

Whereas, daily operations for the 1132nd included the planning and execution of combined mounted and foot patrol in partnership with Coalition Forces, the Iraqi Army, as well as the Iraqi Police; and

Whereas, in February 2008, the 1st Platoon was relocated to a camp about 27 kilometers from downtown Baghdad; and

Whereas, the platoon operated under the 108th Military Police Company from Fort Bragg, North Carolina, and was assigned to a Police Transition Team mission with responsibility for multiple Iraqi Police stations; and

Whereas, throughout their deployment, the soldiers of the 1132nd provided the critical security and law enforcement expertise needed in order to ensure their Iraqi Police counterparts were fully prepared to assume all local law enforcement duties; and

Whereas, due to the nature of their assignment, several soldiers of the 1132nd suffered injury, and five soldiers lost their lives in service to their country; and

Whereas, Sgt. Lance Oliver Eakes of Apex, North Carolina; Sgt. Thomas Columbus Ray II of Weaverville, North Carolina; Sgt. David Blakeley Williams of Tarboro, North Carolina; Staff Sgt. Emanuel Pickett of Wallace, North Carolina; and Specialist David S. Stelmat, Jr. of Littleton, New Hampshire, were killed in the line of duty; and

Whereas, these fallen soldiers should be honored for their valiant and heroic efforts in protecting the national security interest of the United States and upholding the principles of democracy and freedom; and

Whereas, as the 1132nd completes its mission and returns to North Carolina, it is important to pay tribute to the soldiers of this unit who bravely rose to the challenge of serving their country, while leaving loved ones behind and putting their careers on hold during their deployment; and

Whereas, it is also fitting to recognize the family members of the 1132nd who, while enduring financial hardships and sacrifices, provided continuous support for their loved ones during their deployment; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses its gratitude and profound appreciation to the soldiers of the 1132nd Military Police Company of the North Carolina National Guard for their service during Operation Iraqi Freedom.

SECTION 2. The General Assembly honors the memory of members of the 1132nd Military Police Company of the North Carolina National Guard and the New Hampshire National Guard who gave their lives while rendering service to their State and nation and extends its deepest sympathy to their families.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Captain Leland George Pearson, Commander of the 1132nd Military Police Company of the North Carolina National Guard.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of June, 2008.

Resolution 2008-10

H.J.R. 2079

A JOINT RESOLUTION HONORING THE APPALACHIAN STATE UNIVERSITY FOOTBALL TEAM ON WINNING ITS THIRD CONSECUTIVE NATIONAL CHAMPIONSHIP.

Whereas, on December 14, 2007, Appalachian State University's football team won the 2007 National Collegiate Athletic Association's (NCAA) Division I Championship Football Subdivision title, defeating the University of Delaware by a score of 49-21; and

Whereas, the Mountaineers' victory earned the team its third straight national title, becoming the first Division I Football Championship Subdivision (formerly Division I-AA) team to achieve this honor; and

Whereas, the Mountaineers began their 2007 season by upsetting the University of Michigan Wolverines, who were then ranked No. 5 in the Associated Press Top 25 Poll; and

Whereas, by defeating the University of Michigan, Appalachian State University secured a place in college football history by becoming the first Division I Football Championship Subdivision team to beat a Football Bowl Subdivision (formerly Division I-A) team that was ranked in the Associated Press Top 25 Poll; and

Whereas, the Mountaineers' triumph over the Wolverines also influenced the Associated Press to change its 71-year-old policy to allow all Division I teams to be eligible for its Top 25 Poll; and

Whereas, the Mountaineers ended their 2007 season with an overall record of 13-2 and were co-champions of the Southern Conference; and

Whereas, the members of ASU's football team along with Coach Jerry Moore and his entire staff deserve recognition for bringing great honor and distinction to the State of North Carolina; and

Whereas, it is also fitting to recognize the Mountaineers' fans, who have always been an integral part of supporting the team; and

Whereas, one of those enthusiastic fans was the late Mariam Cannon Hayes, who gave the single largest gift ever received by Appalachian State University which was used to create an endowment at the University's School of Music which bears her name; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly congratulates the Appalachian State University Mountaineers on winning the 2007 National Collegiate Athletic Association Division I Football Championship and recognizes the achievements of the players, coaches, students, alumni, and support staff, all of whom were instrumental in helping the football team win its third straight national championship.

SECTION 2. The General Assembly honors the memory of Mariam Cannon Hayes for her longtime support of Appalachian State University, higher education, and the arts.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to Appalachian State University Chancellor Kenneth Peacock, Athletics Director Charlie Cobb, Head Football Coach Jerry Moore, and the family of Mariam Cannon Hayes.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of June, 2008.

Resolution 2008-11

H.J.R. 2172

A JOINT RESOLUTION HONORING THE MEMORY OF C. E. FOY, CRAVEN COUNTY COMMISSIONER AND FIRST PRESIDENT OF THE NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS, ON THE ASSOCIATION'S CENTENNIAL ANNIVERSARY AND RECOGNIZING ONE HUNDRED YEARS OF COUNTY UNITY.

Whereas, Craven County Commissioner C. E. Foy convened a group of county commissioners in New Bern in 1908 to discuss county issues of common interest, leading to an informal agreement to form the North Carolina Association of County Commissioners; and

Whereas, C. E. Foy was elected president of the unofficial association at its first session, held at the Atlantic Hotel in Morehead City on August 19, 1908; and

Whereas, the North Carolina General Assembly passed an act on March 8, 1909, to establish the association on behalf of counties, naming C. E. Foy as the association's president; and

Whereas, C. E. Foy's leadership fostered the present-day North Carolina Association of County Commissioners, an advocacy and service organization made up of all 100 North Carolina counties; and

Whereas, C. E. Foy's vision has been realized through the active participation and engagement of all 100 counties which have directed, strengthened, and enhanced the Association; and

Whereas, the dedication and talents of individual county commissioners like C. E. Foy, along with county staff, have led the Association's success in advocacy, county-centered services, and educational programs; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly recognizes and honors the memory of C. E. Foy and the founders of the North Carolina Association of County Commissioners for their vision, commends the counties of North Carolina for 100 years of unity, extends congratulations on the Association's centennial anniversary, and looks forward

to a second century of service by the Association on behalf of the counties of North Carolina.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the President of the North Carolina Association of County Commissioners.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of June, 2008.

Resolution 2008-12

H.J.R. 2125

A JOINT RESOLUTION HONORING THE FOUNDERS OF BARBECUE PRESBYTERIAN CHURCH DURING THE CHURCH'S TWO HUNDRED FIFTIETH ANNIVERSARY.

Whereas, Barbecue Presbyterian Church, located in the Barbecue Township of Harnett County, North Carolina, is the last of three Presbyterian churches founded in the mid-1700s that continues to serve its congregation in its original location; and

Whereas, in 1756, the Synod of Philadelphia sent the Reverend James Campbell, a Gaelic preacher, to serve the Highland Scots who had settled along the Cape Fear Basin; and

Whereas, in 1758, Reverend Campbell entered into a formal contract with settlers in Bluff, Longstreet, and Barbecue Creek, and held services in both Gaelic and English; and

Whereas, in 1765, a twenty-seven-foot square log building was built to serve as the church near Barbecue Creek; and

Whereas, the first elders of the Barbecue Presbyterian Church were Gilbert Clark, Archibald Buie, Duncan Buie, and Daniel Cameron; and

Whereas, in 1766, a man was found frozen at the locked front door, causing the church to never lock its doors; and

Whereas, in 1775, the second church was built, consisting of a one-room frame building that was 45 by 30 feet; and

Whereas, in 1835, the Fayetteville Presbytery met to dissolve the Barbecue Presbyterian Church, but due to the actions of Reverend Colin McIver, the church was saved; and

Whereas, in 1896, the third church and present sanctuary was built; and

Whereas, Barbecue Presbyterian Church has survived for 250 years and deserves recognition; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly applauds the congregation of Barbecue Presbyterian Church for their continuous service to the church and contributions to the cultural and religious heritage of the State of North Carolina.

SECTION 2. The General Assembly honors the founders of the Barbecue Presbyterian Church for their contributions to the rich cultural heritage of North Carolina.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Reverend Alexander Williams, Pastor of Barbecue Presbyterian Church.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of June, 2008.

Resolution 2008-13

S.J.R. 1996

A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO FILL UNEXPIRED TERMS ON THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)e., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges to fill vacancies for the remainder of the unexpired terms during the regular sessions of the two chambers to be held on July 1, 2008. At that time the Senate shall elect one member to the State Board to fill an unexpired term ending June 30, 2011. The House of Representatives shall also elect one member to the State Board to fill an unexpired term ending June 30, 2009.

SECTION 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the State Board.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of June, 2008.

Resolution 2008-14

H.J.R. 2790

A JOINT RESOLUTION RECOGNIZING THE ACHIEVEMENTS OF THE 2007 PLYMOUTH HIGH SCHOOL FOOTBALL TEAM.

Whereas, the Plymouth High School varsity football team captured its first State title by winning the 2007 NCHSAA State 1-A Football Championship, by defeating North Duplin High School 20-13; and

Whereas, during the Vikings' trip to the State championship, they defeated Cape Hatteras High School 56-0, North Edgecombe High School 48-0, Jones County Senior High School 48-0, and Robersonville Roanoke High School 48-6; and

Whereas, the Vikings finished their regular season undefeated with a record of 11-0; and

Whereas, the team had 49 players and five coaches, including Head Coach Robert Cody; Assistant Coaches Terry Perry, Cory Crossen, and Kerry Baldwin; and Trainer Jerry Jordan; and

Whereas, Coach Robert Cody has coached at Plymouth High School for 23 years; and

Whereas, the Vikings were also successful in the classroom with 11 of 17 seniors on the team planning to attend four-year colleges and universities and one planning to attend community college; and

Whereas, the achievements of the Vikings' football team is a fitting testimonial and memorial to the late Joseph W. Foster, Plymouth High School's former head football coach and athletic director, for whom the school's football field is named; and

Whereas, the Vikings' outstanding football season has brought great honor and distinction to the Washington County Schools and the State of North Carolina and deserves recognition; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly recognizes the achievements of the players, coaches, and staff of the Plymouth High School varsity football team and congratulates the team on winning the 2007 NCHSAA State 1-A Football Championship.

SECTION 2. The General Assembly honors the memory of Joseph W. Foster for his contributions to Plymouth High School's athletic program.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Plymouth High School Principal, Gloria McCray, Varsity Football Coach, Robert Cody, and to the family of Joseph W. Foster.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of June, 2008.

Resolution 2008-15

S.J.R. 2161

A JOINT RESOLUTION RECOGNIZING THE SIXTIETH ANNIVERSARY OF THE SIGNING OF PUBLIC LAW 557, WHICH MADE THE CIVIL AIR PATROL THE OFFICIAL AUXILIARY OF THE UNITED STATES AIR FORCE, AND HONORING THE LIFE AND SERVICE OF CHAPLAIN ROYCE A. BEACHAM, ONE OF THE FINEST MEMBERS OF THE CIVIL AIR PATROL.

Whereas, during World War II, volunteer aviators of the Civil Air Patrol's (CAP) Coastal Patrol distinguished themselves valiantly, flying more than 24 million miles during 86,000 over-water missions — a total of 244,600 flight hours — to help win the battle against U-boats that were preying on coastal shipping; and

Whereas, CAP volunteers spotted 173 submarines, attacked 57, hit 10, and sank two; called in aid for 91 ships in distress; saved 363 survivors of submarine attacks; discovered 17 floating mines; and flew 5,684 special convoy missions; and

Whereas, inspired by the highest sense of patriotism and pride in their mission, 59 members of these courageous aircrews died, 26 were lost at sea, and seven others were seriously injured; and

Whereas, today CAP continues this tradition of service before self as one of the most unique volunteer organizations in America, consisting of everyday heroes — from pilots, teachers, and youth mentors to technology experts, communicators, chaplains, and more; and

Whereas, whether performing search and rescue missions or helping communities recover from floods, wildfires, tornadoes, or hurricanes, CAP members are there to aid their nation; and

Whereas, coming full circle from its beginnings in World War II, CAP is again performing homeland security missions, assisting the Air Force in ensuring the skies above our nation are safe by flying target-intercept training missions for United States military pilots; and

Whereas, former CAP member, Chaplain Lieutenant Colonel Royce A. Beacham, could trace his family history back to the first flight of the Wright brothers at Kitty Hawk; and

Whereas, Chaplain Beacham could trace his personal history to the defending of the United States' coast during WWII, and could say that he was present for both the 50th and 100th Anniversary of the First Flight at Kitty Hawk; and

Whereas, Chaplain Beacham and his father, John L. Beacham, assisted others in setting up the first CAP Squadron in Manteo in 1941, and had served with CAP Squadrons in Greenville, South Carolina, Durham, North Carolina, and the Raleigh-Wake Composite Squadron of North Carolina, where he remained an active Chaplain for a number of years; and

Whereas, Chaplain Beacham never flaunted his special relationship with history and never thought of himself as being special because of it. He had a higher calling into the present and the future, based upon his relationship and calling from God; and

Whereas, Chaplain Beacham translated his calling into such willing and caring service to and for others. The service he rendered had a special measure of gentleness and tenderness, of care and concern for others; and

Whereas, Chaplain Beacham, during his many years of service to CAP, was honored by being named 1984 CAP National Chaplain of the Year, 1997 North Carolina Wing Chaplain of the Year, and 2004 Middle East Region Chaplain of the Year; and

Whereas, Chaplain Beacham obtained a Ground Team Rating and Mission Observer Wings in Emergency Services. He also received ribbons for Rescue Find, Air Search and Rescue, Disaster Relief, Senior Recruiting, and many Commander's Commendations; and

Whereas, Chaplain Beacham was laid to rest on Friday, March 14, 2008, in Raleigh, North Carolina, surrounded by his many CAP comrades; and

Whereas, CAP's Missions for America have impacted the lives of many citizens, as has the life of Chaplain Royce A. Beacham; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly extends its greatest appreciation to the Civil Air Patrol, which became the official auxiliary of the United States Air Force with the signing of Public Law 577 on May 26, 1948.

SECTION 2. The General Assembly expresses its deepest sympathy and heartfelt respect to the family of Chaplain Lieutenant Colonel Royce A. Beacham.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Chaplain Lieutenant Colonel Royce A. Beacham.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 25th day of June, 2008.

Resolution 2008-16

H.J.R. 2794

A JOINT RESOLUTION COMMEMORATING THE FIFTIETH ANNIVERSARY OF PUBLIC SCHOOL INTEGRATION IN NORTH CAROLINA.

Whereas, the 1954 *Brown v. the Board of Education* decision of the United States Supreme Court declared that public schools legally segregated by race were and are unconstitutional; and

Whereas, *Brown v. the Board of Education* also declared that separate White, Negro, and Indian schools in North Carolina and other states should be eliminated with "all deliberate speed"; and

Whereas, in response to the *Brown* decision, officials in North Carolina debated the issue of public school integration through executive, legislative, judicial, and constitutional amendment procedures; and

Whereas, a special session of the General Assembly was called in the summer of 1956 to respond to the recommendations of the Pearsall Commission; and

Whereas, in September of 1956, a set of constitutional amendment proposals were approved by the voting citizens of North Carolina, thus substantially inhibiting and delaying the impact of the *Brown* decision; and

Whereas, local school superintendents Dr. Benjamin Smith, Dr. Elmer Garinger, and Dr. Craig Phillips worked with school boards and community leaders in Greensboro, Charlotte, and Winston-Salem to facilitate the era of public school integration during the summer of 1957; and

Whereas, on September 4, 1957, Josephine Boyd (Bradley) at Greensboro Senior High School along with Brenda Florence, Jimmy Florence, Russell Herring, Elijah Herring, and Harold Davis at Gillespie Park Elementary School integrated the previously all-white public schools in Greensboro; and

Whereas, on September 4, 1957, Dorothy Counts (Scoggins) at Harding Senior High School, Gustevas Roberts at Central Senior High School, Girvaud Roberts (Justice) at Piedmont Junior High School, and Delois Huntley at Alexander Graham Junior High School integrated the previously all-white public schools in Charlotte; and

Whereas, on September 4, 1957, Gwendolyn Bailey (Coleman) integrated the previously all-white Reynolds High School in Winston-Salem; and

Whereas, in the book, *Greensboro: A Chosen Center*, historian Gayle Fripp indicates that Gillespie Park Elementary School became the first integrated elementary school in the southeastern United States; and

Whereas, on June 4, 1958, Josephine Boyd (Bradley) of Greensboro Senior High and Ernest Green of Little Rock (AR) Central High School became the first two African-American students to graduate from previously all-white high schools in the South; and

Whereas, many different versions of school integration evolved across the State during the decade of the 1960s; and

Whereas, full-scale public school integration finally became the operational practice for all of North Carolina's public school districts by 1970; and

Whereas, monumental progress has been realized in the continuing quest for equal educational opportunities for North Carolina's school children; and

Whereas, 2007-2008 marks the 50th anniversary of the historic 1957-1958 school year; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The North Carolina General Assembly wishes to commemorate the ongoing progress toward equity and to recognize the bravery that was demonstrated by North Carolinians from multiple ethnic groups a half century ago.

SECTION 2. The General Assembly honors the memory of Dr. Benjamin Smith, Dr. Elmer Garinger, Russell Herring, Elijah Herring, Harold Davis, and Gustevas Roberts for their roles in helping to integrate North Carolina's schools in 1957.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the families of the integration pioneers mentioned in this resolution.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of June, 2008.

Resolution 2008-17

H.J.R. 2727

A JOINT RESOLUTION RECOGNIZING THE 60TH ANNIVERSARY OF THE FOUNDING OF THE STATE OF ISRAEL AND REAFFIRMING BONDS OF FRIENDSHIP AND COOPERATION BETWEEN THE STATE OF NORTH CAROLINA AND ISRAEL.

Whereas, on May 14, 1948, the people of Israel proclaimed the establishment of the sovereign and independent modern State of Israel as a successor and outgrowth of the historic kingdom of Israel with the city of Jerusalem as its capital, and the United States government established full diplomatic relations with Israel; and

Whereas, since its establishment 60 years ago, the modern State of Israel has rebuilt a nation, forged a new and dynamic democratic society, and created a thriving economic, political, cultural and intellectual life, despite the heavy costs of war and terrorism against the people of Israel; and

Whereas, Israel has developed some of the leading universities in the world and 8 Israeli citizens have been awarded the Nobel Prize; and

Whereas, Israel has developed an advanced, entrepreneurial economy, is a global leader in the high-tech industry, and is at the forefront of research and development in the field of renewable energy sources; and

Whereas, North Carolina has exported over \$1 billion in goods and services to Israel since 1996, including over \$155 million in 2007; and

Whereas, Israel ranks as North Carolina's 27th largest trading partner in total annual trade; and

Whereas, over \$8 million in Bi-National Agricultural and Science Foundation research grants have been shared by North Carolina and Israel administered by the University of North Carolina at Chapel Hill, Wake Forest University, Duke University, and North Carolina State University designed to fight hunger, increase crop, poultry, and fish production, fight cancer, and improve health care through genetic and cardiovascular research among a host of other projects; and

Whereas, Israel has absorbed millions of Jewish refugees from the former Soviet Union, Ethiopia, the Middle East, North Africa, and other countries throughout the world and fully integrated them into Israeli society; and

Whereas, Israel has established peaceful bilateral relations with Egypt and Jordan and has expressed its desire to establish peaceful relations with all Arab states; and

Whereas, for six decades, the United States and Israel have maintained a special relationship based on mutually shared democratic values, common strategic interests, and moral bonds of friendship and mutual respect; and

Whereas, it is also fitting and proper to honor the memory of the thousands of Israelis who have died defending Israel's existence since 1948, including Yonathan Netanyahu, one of Israel's greatest soldiers and heroes, who died leading the daring raid and successful rescue of Israeli citizens hijacked by terrorists to Entebbe, Uganda, on July 4, 1976, demonstrating Israel's commitment to the sanctity of life and protection of the Jewish people; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly recognizes the historic significance of the 60th anniversary of the reestablishment of the sovereign and independent State of Israel as a homeland for the Jewish people and reaffirms its enduring support for Israel as Israel pursues peace with its neighbors.

SECTION 2. The General Assembly commends the people of Israel for their remarkable achievements in building a new nation and a pluralistic, democratic society in the face of terrorism and looks forward to increased trade and enhanced economic, scientific, cultural and educational cooperation for the mutual benefit and prosperity of the citizens of North Carolina and the people of Israel.

SECTION 3. The General Assembly extends the warmest congratulations and best wishes to the State of Israel and the Israeli people for a peaceful, secure, and successful future.

SECTION 4. The General Assembly honors the memory of Yonathan Netanyahu and those who died defending Israel's existence.

SECTION 5. The Secretary of State shall transmit a certified copy of this resolution to the Director of the Jewish Community Relations Council.

SECTION 6. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 30th day of June, 2008.

Resolution 2008-18

H.J.R. 2057

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SOPHIE ELLEN "JO" GRAHAM FOSTER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Sophie Ellen "Jo" Graham was born on May 22, 1915, to the Reverend Joseph Alexander Graham and Queen McDonald Graham in Rowesville, South Carolina; and

Whereas, Jo Graham was a graduate of Spring Hill Central High School and Columbia College, where she earned a bachelor's degree in 1935; and

Whereas, Jo Graham was the wife of James Benjamin Foster and the mother of Mary Jo Foster McClure; and

Whereas, Jo Graham Foster had an outstanding career as an educator, teaching in South Carolina and Maryland before moving to North Carolina; and

Whereas, Jo Graham Foster taught at Thomasboro High School in Charlotte, served as an Assistant Principal at West Mecklenburg High School for 24 years, and later worked as an Administrative Assistant to the Superintendent of the Charlotte-Mecklenburg Schools; and

Whereas, Jo Graham Foster was a member of several professional organizations, including the National Education Association, Professional Educators of

North Carolina, Charlotte-Mecklenburg Educators Association, National Association of Secondary School Principals, Delta Kappa Gamma, Gamma Sigma, Sigma Tau Delta, and the International Platform Association, and served as President of the North Carolina Association of Educators; and

Whereas, Jo Graham Foster served with honor and distinction as a member of the North Carolina House of Representatives for 10 terms between 1973 and 1992; and

Whereas, during her tenure in the General Assembly, Jo Graham Foster served as Chair of the Committee on Education, Government Subcommittee on State Government and Properties, and the Economic Expansion Subcommittee on Travel, Tourism and Economic Development and made contributions as a member of the Committees on Appropriations, Aging, Basic Resources, Mental Health, Ethics, and Rules and the Advisory Budget Commission; and

Whereas, Jo Graham Foster became the first female to preside over the House of Representatives during a session on May 12, 1989; and

Whereas, Jo Graham Foster was a much sought-after public speaker by many civic, religious, and educational groups and appeared before 127 audiences as the main speaker; and

Whereas, Jo Graham Foster was active in her community, serving on numerous boards and commissions, including the Education Commission of the States, Johnson C. Smith University's Board of Visitors, Boys Town Board of Visitors, Relatives Advisory Board, Mental Health Board, Total Care Board, National Committee for Citizenship and Social Studies, and the Board of the State and Federal Assembly; and

Whereas, Jo Graham Foster's numerous awards and honors include: Outstanding Educator among Elementary School Principals; National Legislator of the Year; National Woman of the Year Award in Business and Politics; Business and Professional Women's State Career Woman of the Year Award; and Columbia College Alumnae Association Career Achievement Award; and

Whereas, Jo Graham Foster was active in the Dilworth Methodist Church in Charlotte, serving on the Board of Stewards and as an adult Sunday school teacher and a lay speaker; and

Whereas, Jo Graham Foster died on December 1, 2006, at the age of 91; and

Whereas, Jo Graham Foster is survived by her grandchildren, Jimmy and Jerry McClure; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life and memory of Sophie Ellen "Jo" Graham Foster and expresses the appreciation of this State and its citizens for the service she rendered.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Sophie Ellen "Jo" Graham Foster 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 Sophie Ellen "Jo" Graham Foster.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 2008.

Resolution 2008-19

H.J.R. 2799

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ADAM LEE MARION, FORMER MEMBER OF THE ARMY NATIONAL GUARD.

Whereas, Adam Lee Marion was born in Surry County on January 19, 1982; and

Whereas, Adam Lee Marion graduated from Surry Central High School in 2000; and

Whereas, Adam Lee Marion was an employee of the Children's Center of Surry, Inc., and a member of the Piney Grove Baptist Church in Mount Airy; and

Whereas, Adam Lee Marion became a member of the Army National Guard, joining the 883rd Engineer Company in Mount Airy as a Combat Engineer in March of 2007; and

Whereas, after graduating from Basic Training and Combat Engineer School in July 2007, Pfc. Marion volunteered to mobilize and deploy with the 171st Engineer Company from St. Pauls, North Carolina; and

Whereas, Pfc. Marion's company, composed of approximately 100 soldiers, mobilized in June of 2007 and deployed to Baghdad in September of 2007; and

Whereas, Pfc. Marion served as an operator of the "Husky" vehicle, which leads improvised explosive device clearing operation convoys; and

Whereas, Pfc. Marion helped to detect numerous explosive devices in over 100 Route Clearance Missions in the Baghdad area, thereby saving many lives and earning the respect and admiration of those he protected; and

Whereas, Pfc. Marion was killed during an indirect fire attack on a base near Baghdad on April 28, 2008; and

Whereas, Pfc. Marion was awarded the Bronze Star Medal, Purple Heart, National Defense Service Medal, Global War on Terror Medal, the Iraqi Campaign Medal, the Combat Action Badge, Armed Forces Reserve Medal w/M Device, Army Service Ribbon, Army Good Conduct Medal, and the Overseas Service Bar; and

Whereas, Pfc. Marion is survived by his parents, Donnie Lee Marion and Pam McCormick Marion; sister and brother-in-law, Adrian and Terry McCann; nephew and niece, Connor McCann and Marissa McCann; grandmothers, Stella Marion and Annie Lou McCormick; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Pfc. Adam Lee Marion and expresses the gratitude of this State for the service he rendered as a citizen soldier of the Army National Guard.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Pfc. Adam Lee Marion.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 2008.

Resolution 2008-20

S.J.R. 101

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES FRANKLIN "JIM" RICHARDSON, SR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, James Franklin "Jim" Richardson, Sr., was born on May 20, 1926, to Sam and Addie Pickens Richardson in the City of Charlotte; and

Whereas, Jim Richardson attended the Charlotte public schools and earned a bachelors degree from Johnson C. Smith University; and

Whereas, Jim Richardson worked for the United States Postal Service for 33 years, retiring as Postmaster of the Mount Holly facility on January 8, 1981; and

Whereas, Jim Richardson served with honor and distinction as a member of the General Assembly, serving one term in the House of Representatives from 1985 through 1986 and four terms in the Senate from 1987 through 1994; and

Whereas, during his tenure in the General Assembly, Jim Richardson served as chair of several committees, including Veterans Affairs and Senior Citizens, Children and Youth, and Appropriations Subcommittee on Human Resources, and served as chair of the Legislative Black Caucus and as the Majority Whip from 1991 to 1992; and

Whereas, after leaving the General Assembly, Jim Richardson continued to represent the citizens of Mecklenburg County as a member of the Board of County Commissioners; and

Whereas, Jim Richardson was appointed to the Board of County Commissioners to fill an unexpired term on August 15, 1994, and was elected to the Board for two terms on December 5, 1994, and December 7, 1998; and

Whereas, Jim Richardson served as chair of the North Carolina Social Services Commission, the WTVI Public Television Advisory Board, the Charlotte/Mecklenburg Youth Council, and the HIV/AIDS Consortium; and

Whereas, Jim Richardson was a Trustee of Johnson C. Smith University and the Charlotte Mint Museum, a member of the Board of Directors of Barium Springs Home for Children, a member of the Board of Directors of the Arts and Science Council, and a member of the North Carolina State Board of Examiners in Optometry; and

Whereas, Jim Richardson was active in several fraternal organizations, including the Masons, Shriners, Sigma Pi Phi Fraternity, and Omega Psi Phi Fraternity, Inc.; and

Whereas, Jim Richardson's other memberships included the Charlotte Drug Education Center Board, Mecklenburg Area Mental Health Authority, Mecklenburg Youth Services Board, Mecklenburg County Alcoholic Beverage Control Board, and the North Carolina Institute of Minority Economic Development, Inc.; and

Whereas, Jim Richardson was a loyal and devoted member of his church, Memorial Presbyterian Church of Charlotte, where he served as a trustee, deacon, elder, and as a member of the Social Action Committee; and

Whereas, Jim Richardson served in World War II as a member of the United States Navy from 1944 to 1946; and

Whereas, during his lifetime, Jim Richardson received more than 250 recognitions and awards; and

Whereas, in 1994, the main ballroom of the Charlotte Convention Center was named the James (Jim) Richardson Ballroom; and

Whereas, for his outstanding service to the United States Postal Service, Congress enacted legislation sponsored by Congressman Mel Watt to designate a post office in Charlotte as the "Jim Richardson Post Office" in 2003; and

Whereas, Jim Richardson died September 28, 2003, after a lifetime of public service; and

Whereas, Jim Richardson is survived by his wife, Mary Nixon Richardson; a son, James Richardson, Jr.; daughter-in-law, Angela Richardson; and two grandchildren, James Franklin Richardson, III, and Ryan Chase Richardson; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of James Franklin "Jim" Richardson, Sr., and expresses its appreciation for the service he rendered to his community, Mecklenburg County, and the State of North Carolina.

SECTION 2. The General Assembly extends its deepest sympathy to the family of James Franklin "Jim" Richardson, Sr., for the loss of a beloved husband, father, and grandfather.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of James Franklin "Jim" Richardson, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of July, 2008.

Resolution 2008-21

H.J.R. 2797

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF LOUISE SMITH BRENNAN, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Louise Smith Brennan was born in Chester, South Carolina, on November 11, 1922, to Tom Smith and Kate Varnadore Smith; and

Whereas, Louise Smith Brennan graduated from Hartsell High School in 1939 and later earned a bachelor's degree in Political Science and English from the University of North Carolina at Charlotte in 1970 at the age of 48; and

Whereas, Louise Smith Brennan furthered her education by taking additional graduate courses at the University of North Carolina at Chapel Hill; and

Whereas, Louise Smith Brennan married Robert Thomas Sutton in 1949, and from their union, three children, Susan, Jane, and Robert, Jr., were born; and

Whereas, after the death of Robert Thomas Sutton, Sr., Louise Smith Brennan married Stanley L. Brennan on September 25, 1965; and

Whereas, Louise Smith Brennan became active in politics and served the State and national Democratic party in many capacities, including serving as President of the Democratic Women's Club of Mecklenburg County in 1967, as Chair of the Mecklenburg County Democratic Party from 1970 to 1972, and as a Delegate at the Democratic National Convention in 1972; and

Whereas, Louise Smith Brennan served with honor and distinction as a member of the House of Representatives during the 1969, 1977, 1979, 1980, 1981, and 1983 sessions of the General Assembly; and

Whereas, as a member of the General Assembly, Louise Smith Brennan advocated the adoption of the Equal Rights Amendment and supported issues affecting women, including day care and domestic violence; and

Whereas, after leaving the General Assembly, Louise Smith Brennan served as an adjunct professor in the Political Science Department at the University of North Carolina at Charlotte; and

Whereas, Louise Smith Brennan was active in her community, serving as a member of the Board of Directors of the Heart Association of Mecklenburg County, Unit Chair of United Appeal (now the United Way), and President of Dilworth PTA; and

Whereas, in 1988, Louise Smith Brennan became the first female member of the Mecklenburg County Rotary Club; and

Whereas, Louise Smith Brennan was a faithful member of Caldwell Memorial Presbyterian Church, where she served as an Elder and Sunday School Teacher; and

Whereas, over the years, Louise Smith Brennan was recognized for her many good deeds, including being named Charlotte's Woman of the Year in 1982 and being inducted into the University of North Carolina at Charlotte's Hall of Fame; and

Whereas, Louise Smith Brennan died on December 8, 2007, at the age of 85; and

Whereas, Louise Smith Brennan is survived by her children, Jane Sutton Rollins and Robert T. Sutton, Jr., and grandchildren, Brennan Coleman, Elizabeth Coleman, David Rollins, Jack Mitchell, and Robby Mitchell; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Louise Smith Brennan and expresses its appreciation for her life and public service.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Louise Smith Brennan 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 Louise Smith Brennan.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of July, 2008.

Resolution 2008-22

H.J.R. 2796

A JOINT RESOLUTION RECOGNIZING THE ONE HUNDREDTH ANNIVERSARY OF "EVERYBODY'S DAY," THE OLDEST FESTIVAL IN NORTH CAROLINA.

Whereas, the Mayor of Thomasville, W. O. Burgin, organized the first Everybody's Day festival in 1908; and

Whereas, the intention of Everybody's Day was to bring all citizens of the community and neighboring communities together in downtown Thomasville for a community and regional celebration; and

Whereas, Everybody's Day is the oldest festival of its kind held in North Carolina; and

Whereas, Everybody's Day was held in Thomasville during the 1920s and the 1950s; and

Whereas, the Thomasville Area Chamber of Commerce has been operating Everybody's Day since 1984; and

Whereas, Everybody's Day continues to bring tens of thousands of citizens to downtown Thomasville for the annual celebration on the last Saturday of each September; and

Whereas, 2008 marks the 100th anniversary of Everybody's Day; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of W. O. Burgin and expresses its appreciation for his role in establishing Everybody's Day in the City of Thomasville.

SECTION 2. The General Assembly commends Everybody's Day on its 100th anniversary and encourages the citizens of this State to participate in anniversary activities on September 29, 2008.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Thomasville Area Chamber of Commerce.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Resolution 2008-23

H.J.R. 2798

A JOINT RESOLUTION HONORING THE MEMORY OF THE CREW OF THE B-24J LIBERATOR WHO WAS LOST DURING WORLD WAR II, AND EXPRESSING GRATITUDE TO CLAYTON KUHLES FOR HIS DISCOVERY OF THE PLANE, NICKNAMED "HOT AS HELL," IN 2006.

Whereas, in April of 1942, Allied Forces began flying missions from India over the Himalayan Mountains to supply Chinese forces fighting the Japanese; and

Whereas, these resupply missions over "The Hump" were among the most dangerous of World War II resulting in the loss of hundreds of aircraft and crew of which more than 500 aircraft and 1,200 crew members still remain missing today; and

Whereas, on January 25, 1944, the crew of the B-24J Liberator, nicknamed "Hot as Hell," was lost on a return flight from Kunming, China, to Chabua, India; and

Whereas, on November 20, 1944, the eight crew members were declared dead, including Pilot, 1st Lt. William A. Swanson; Co-Pilot, Flight Officer Sheldon L. Chambers; Navigator, 1st Lt. Irwin Zaetz; Bombardier, 1st Lt. Robert E. Oxford; Engineer, Staff Sgt. Charles D. Ginn; Radio Op., Staff Sgt. Harry B. Queen; Gunner, Sgt. James A. Hinson; and Gunner, Sgt. Alfred H. Gerrans; and

Whereas, Sergeant James A. Hinson was a native of Greensboro, North Carolina and Sergeant Alfred H. Gerrans was a native of Kinston, North Carolina; and

Whereas, Flight Officer Sheldon Chambers was the uncle of Shirley Black of Mocksville, North Carolina, and 1st Lt. Irwin Zaetz was the uncle of Gary Zaetz of Cary, North Carolina, who has been instrumental in locating the surviving family members of the crew; and

Whereas, on December 7, 2006, Clayton Kuhles of Prescott, Arizona, discovered the crash site and wreckage of "Hot as Hell" in a remote area of India; and

Whereas, Clayton Kuhles has dedicated his personal time and resources to locate American and Allied aircraft lost in the India-Burma-China theater of war; and

Whereas, Clayton Kuhles has since assisted surviving family members of the crew to successfully petition for the recovery of the crew's remains by the United States Air Force in cooperation with the government of India; and

Whereas, this mission to be conducted in 2008 will, after 64 years, secure the remains of eight brave and honored Americans for interment in their native soil; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly wishes to honor the memory of the crew of the B-24 Liberator, "Hot as Hell," who gave the full measure of their lives while rendering service to our country during World War II, and pays tribute to all members of the Armed Forces still missing in action.

SECTION 2. The General Assembly wishes to acknowledge with gratitude the work of Clayton Kuhles whose efforts and dedication to the memory of American service members lost in the India-Burma-China theater of war led to the discovery of these and other missing airmen.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Mr. Kuhles and to the surviving families of the crew members of the "Hot as Hell."

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Resolution 2008-24

H.J.R. 2774

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF FRANK WARNER CAPRA, JR., FOR HIS CONTRIBUTIONS TO THE DEVELOPMENT OF THE FILM INDUSTRY IN NORTH CAROLINA.

Whereas, Frank Warner Capra, Jr., was born on March 20, 1934, in Los Angeles, California, to Frank Capra, Sr., and Lucille Rayburn Warner Capra; and

Whereas, Frank Capra, Jr., studied math and science at California Institute of Technology prior to transferring to Pomona College, where he graduated with a bachelor's degree in geology in 1955; and

Whereas, after college, Frank Capra, Jr., worked for Hughes Tool Co., a company owned by Howard Hughes, as a writer and director of technical documentaries and later spent three years in the Army Signal Corps making training films and teaching combat motion picture photography; and

Whereas, Frank Capra, Jr., would soon join his father, a noted Hollywood director, whose best-known film was "It's a Wonderful Life" in the film industry; and

Whereas, Frank Capra, Jr., began his Hollywood career during the 1960s, working with his father on "Pocketful of Miracles" (1961) and serving as the associate producer of several films, including three "Planet of the Apes" sequels, "Marooned," and "Play It Again, Sam"; and

Whereas, Frank Capra, Jr., served as the producer of several other films, including "Billy Jack Goes to Washington" (1977), "Born Again" (1978), and "The Black Marble" (1980), and as the second assistant director of several television shows, including "Dennis the Menace," "Gunsmoke," and "Hazel"; and

Whereas, Frank Capra, Jr., served as president and chief executive officer of Avco Embassy Pictures from 1981 to 1982; and

Whereas, on a scouting mission in 1983 for the Stephen King horror film, "Firestarter," Frank Capra, Jr., settled on a location in Wilmington, North Carolina, and later persuaded the film's executive producer, Dino De Laurentiis, to build a studio facility in the area; and

Whereas, when the film studio changed ownership in 1996, Frank Capra, Jr., became president of what became known as EUE/Screen Gems Studios, which today is the largest film production center east of California; and

Whereas, many films and television series were filmed at EUE/Screen Gems Studios while Frank Capra, Jr., served as president, including "Black Knight" (2001), "Domestic Disturbance" (2001), "Divine Secrets of the Ya-Ya Sisterhood" (2002), "A Walk to Remember" (2002), "Dawson's Creek," and "One Tree Hill"; and

Whereas, in addition to his duties at EUE/Screen Gems Studios, Frank Capra, Jr., served as the Distinguished Visiting Professor of Film Studies at the University of North Carolina at Wilmington and served as a member of the North Carolina Film Council and The Academy of Motion Pictures Arts and Science and the Director's Guild of America; and

Whereas, for several years, Frank Capra, Jr., screened his family's 35mm print of "It's a Wonderful Life" at the University of North Carolina at Wilmington during the month of December; and

Whereas, Frank Capra, Jr., was well respected in his adopted City of Wilmington and served as the Grand Marshall of the North Carolina Azalea Festival in 1995 and was named the 2007 Citizen of the Year by the University of North Carolina at Wilmington; and

Whereas, Frank Capra, Jr., died on December 19, 2007, leaving to cherish his memory his wife, Deborah Capra of Santa Barbara, California; two sons, Frank Capra III, of Studio City, California, and Jonathan Capra of Wilmington, North Carolina; a daughter, Christina Capra, of Santa Barbara, California; two siblings, Lucille Capra of Traverse City, Michigan, and Tom Capra of Palm Desert, California; and one grandchild; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life and memory of Frank Warner Capra, Jr., for his contributions in helping to develop the film industry in North Carolina.

SECTION 2. The General Assembly extends its sincere sympathy to the family of Frank Warner Capra, Jr., for the loss of its distinguished family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Frank Warner Capra, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of July, 2008.

Resolution 2008-25

S.J.R. 2168

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES DAVIS "JIM" SPEED, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, James Davis "Jim" Speed was born on January 30, 1915, in Franklin County to Henry Plummer Speed and Addie Jeffreys Speed; and

Whereas, Jim Speed was a graduate of Gold Sand High School; and

Whereas, Jim Speed married Martha Matthews on November 29, 1947, and they were the parents of three children, Claudia, Tom, and Mark; and

Whereas, Jim Speed was a lifelong resident of Franklin County and made a living as a tobacco warehouseman and farmer, producing tobacco and grain and raising cattle on a 600-acre farm that has been in his family since the 1850s; and

Whereas, Jim Speed served with honor and distinction in the General Assembly as a member of the House of Representatives from 1961 to 1972 and as a member of the Senate from 1977 to 1996, representing the people of various counties, including Franklin, Warren, Vance, Nash, Wilson, and Johnston; and

Whereas, during his tenure in the House of Representatives, Jim Speed served as chair of the Committees on Agriculture and Local Government; and

Whereas, as a State Senator, Jim Speed served as chair of several Committees, including Agriculture, Marine Resources, and Wildlife, Natural Resources and Economic Development, and Transportation; and

Whereas, Jim Speed served with distinction as a member of the Board of Directors of several local and State organizations, including the Franklin County Farm Bureau, Franklin Memorial Hospital, North Carolina Veterinary Foundation, and North Carolina Farm Bureau; and

Whereas, Jim Speed also served on the Franklin County Leadership Committee, Franklin County Board of Health, North Carolina State Board of Agriculture, Agri-Business Council, and North Carolina Forestry Association; and

Whereas, Jim Speed received numerous awards and honors, including the Outstanding Service Award by the North Carolina Association of Rescue Squads in 1977, the Achievement Award by the Franklin County Chamber of Commerce in 1980, and was named the District Tree Farmer of the Year in 1974 and the Conservation Farmer of the Year in 1975; and

Whereas, Jim Speed was recognized by the North Carolina Soybean Producers Association and the North Carolina soybean industry for his outstanding contributions in 1989 and received the Order of the Long Leaf Pine by Governor James B. Hunt, Jr. in 1981 and the Outstanding Legislator's Award from the North Carolina Division of Aging in 1991; and

Whereas, Jim Speed was a Mason and a Shriner and a devoted member of Mt. Zion Baptist Church in Louisburg; and

Whereas, Jim Speed died on June 14, 2006, at the age of 91; and

Whereas, at the time of his death, Jim Speed was survived by his wife, Martha Speed; sons, Tom Speed and Mark Speed; daughter, Claudia Speed, who is now deceased; and one grandson, Davis; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly of North Carolina expresses its deep appreciation for the life and accomplishments of James Davis "Jim" Speed and for the service he rendered to his State and his community.

SECTION 2. The General Assembly of North Carolina expresses its deepest sympathy to the family of James Davis "Jim" Speed for the loss of their distinguished family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of James Davis "Jim" Speed.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of July, 2008.

Resolution 2008-26

H.J.R. 161

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF NORTH CAROLINA'S NATIVE SON, BENNY PARSONS, NASCAR CHAMPION AND POPULAR SPORTSCASTER.

Whereas, Benny Parsons was born on July 12, 1941, in Wilkes County; and

Whereas, Benny Parsons graduated from West Wilkes High School and moved to Detroit for a while where he worked for a gas station and a cab company owned by his father. There he began to develop his skills as a racer and returned to North Carolina to race in the ARCA series; and

Whereas, in 1963, Benny Parsons began stock car racing and, in 1965, earned the Automobile Racing Club of America (ARCA) Rookie of the Year Award; and

Whereas, Benny Parsons went on to win ARCA championships in 1968 and 1969 before joining NASCAR in 1970; and

Whereas, Benny Parsons' first NASCAR victory was in 1971 at the South Boston Speedway in Virginia; and

Whereas, Benny Parsons won the NASCAR Winston Cup Championship in 1973. His championship was followed by his winning the Daytona 500 in 1975 and the World 600 in Charlotte in 1980; and

Whereas, Benny Parsons became the first NASCAR driver to qualify a stock car over 200 mph, when he reached a speed of 200.176 mph during the Winston 500 at the Talladega Superspeedway in 1982; and

Whereas, from 1964 through 1988, Benny Parsons competed in 526 races compiling a record of 21 wins, 199 top-5 finishes, and 283 top-10 finishes; and

Whereas, Benny Parsons' outstanding racing skills earned him numerous honors and awards; he became the first ARCA champion to be inducted into the International Sports Hall of Fame in 1994, he was inducted into the Motorsports Hall of Fame of America in 2006, and he was recognized as one of the 50 greatest drivers in NASCAR history in 1998; and

Whereas, Benny Parsons retired from racing in 1988 and began a career in broadcasting with ESPN in 1989; and

Whereas, while working at ESPN, Benny Parsons received an Emmy Award for his exceptional reporting in 1996; and

Whereas, in 2001, Benny Parsons joined NBC and TNT as a NASCAR announcer and color commentator; and

Whereas, Benny Parsons' other endeavors included serving as the host of the "Fast Talk with Benny Parsons," a nationally syndicated radio show on Performance Racing Network; and

Whereas, Benny Parsons was a respected and beloved member of his community for his dedicated time, work, and monetary contributions to the Ellerbe Lions Club, Ellerbe Parent Teachers Association, Speedway Children Charities, Boys and Girls Club of America, Victory Junction Gang Camp, National Autism Society, American Cancer Society, Hendrick Bone Marrow Foundation, Boy Scouts of America, National Motorsports Press Association, and many other community-based organizations during his career as a stock car driver and television commentator; and

Whereas, Benny Parsons served as a proprietor of Rendezvous Ridge Winery, a 56-acre vineyard located near his boyhood home in Wilkes County on land that has been owned by the Parsons family for many years; and

Whereas, Benny Parsons passed away on January 16, 2007; and

Whereas, Benny Parsons leaves to cherish his memory: his wife, Terri Parsons, two sons, Kevin Parsons and Keith Parsons, and two grandchildren, Emily Parsons and Libbie Parsons; and

Whereas, on January 30, 2007, Benny Parsons was posthumously awarded the North Carolina Motorsports Association Achievement in Motorsports Tribute Award and the Order of the Long Leaf Pine; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Benny Parsons and expresses its appreciation for his life and contributions to motorsports.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Benny Parsons 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 Benny Parsons.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

Resolution 2008-27

H.J.R. 2075

A JOINT RESOLUTION HONORING THOSE WHO HAVE CONTRIBUTED TO THE SUCCESS OF THE REIDSVILLE HIGH SCHOOL FOOTBALL PROGRAM.

Whereas, the City of Reidsville is often referred to as the football capital of North Carolina because of the success of the boys' varsity football program at Reidsville High School; and

Whereas, the Reidsville High School football program leads the State in the number of State championships, having won 16 titles in 21 appearances; and

Whereas, Reidsville High School football program won its first State championship in 1930, followed by championships in 1931, 1932, 1937, 1939, 1940, 1943, 1945, 1950, 1954, 1963, 1969, 1970, 2002, 2003, and 2007; and

Whereas, the Reidsville High School was named the State high school football co-champion in 1943 and 1963 as a result of a tie game in those years; and

Whereas, one of Reidsville High School football team's most recent accomplishments includes finishing its 2007 season with a conference record of 16-0; and

Whereas, over the years, individual team members have been recognized for their efforts, resulting in players being selected to participate in the Shrine Bowl and being recruited to play at various colleges and universities; and

Whereas, several Reidsville football players have had successful professional careers, playing for the New York Giants, Philadelphia Eagles, and Chicago Bears; and

Whereas, the Reidsville High School football program has had outstanding coaches who have been instrumental in helping the football program excel; and

Whereas, some of the Reidsville High School head football coaches include: Lindsey Jackson "Hap" Perry, who helped the team win seven State championships during his tenure from 1927 to 1945; George Washington Wingfield, who coached the team from 1946 to 1960 and led the team to four State championships; John Morris, who guided teams, which included the consolidated teams of Reidsville High School and the former Booker T. Washington High School, from 1967 to 1973 and won two State championships; and current coach Jimmy Teague, who took over in 1992 and serves as the coach with the most wins in the school's history; and

Whereas, throughout the years, Reidsville's citizens and the Reidsville High School alumni have provided tremendous support to the football program as the team changed its mascot from the Golden Tornados, the Golden Lions, and finally the Rams; and

Whereas, the achievements of the Reidsville High School football program is a fitting testimonial and memorial to Edwin Holten, a member of the Golden Tornados and Tommy Burts, a member of the Golden Lions, who died while they were members of the football team; and

Whereas, the Reidsville High School football program has brought great honor and distinction to the State and deserves recognition; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the players, coaches, and fans of Reidsville High School for their roles in helping the school football program succeed.

SECTION 2. The General Assembly honors the life and memory of Edwin Holten and Tommy Burts for their contributions to the Reidsville High School football program.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the athletic director of Reidsville High School.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of July, 2008.

Resolution 2008-28

S.J.R. 2171

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF EDWARD M. "ED" O'HERRON, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Edward M. "Ed" O'Herron, Jr., was born on November 6, 1915, in Baltimore, Maryland, to Edward M. O'Herron and Sally E. O'Herron; and

Whereas, Ed O'Herron grew up in the City of Charlotte, where his father expanded the family's drugstore business by opening the Eckerd's Cut Rate Medical Store; and

Whereas, Ed O'Herron attended Culver Military Academy and the United States Naval Academy and, in 1938, earned a bachelor's degree from the University of North Carolina at Chapel Hill; and

Whereas, after college, Ed O'Herron married Margaret Aston "Dosty" Blackman and moved to Asheville, where he worked for the warehouse that served the six Eckerd stores in North Carolina; and

Whereas, during World War II, Ed O'Herron proudly served his country as a member of the United States Marine Corps, achieving the rank of captain and earning a Silver Star at Iwo Jima for "heroism, leadership in battle and cool courage;" and

Whereas, after his military service, Ed O'Herron rejoined Eckerd Drugs of North Carolina and later served the company as Treasurer in 1946, Vice-President and Director in 1950, President in 1962, and Chair in 1965; and

Whereas, Ed O'Herron's leadership and dedication helped Eckerd Drugs grow from six stores to 260 before the merger with the Jack Eckerd Corporation in 1977; and

Whereas, Ed O'Herron was inducted into the North Carolina Business Hall of Fame in 2003; and

Whereas, Ed O'Herron served the people of North Carolina, representing Mecklenburg County as a member of the House of Representatives for three terms between 1951 and 1956; and

Whereas, during his tenure in the General Assembly, Ed O'Herron sponsored the first legislation to establish the State's community college system; and

Whereas, Ed O'Herron served as a member of the Advisory Budget Commission from 1965 to 1969 and ran for governor in 1976; and

Whereas, Ed O'Herron served on a number of professional boards, including Piedmont Aviation, Wachovia Corporation, BellSouth, and Piedmont Natural Gas; and

Whereas, Ed O'Herron believed in community service and served on numerous boards, including Chair of the Charlotte-Mecklenburg Memorial Hospital for 26 years, Chair of the Charlotte-Mecklenburg Hospital Authority, and Chair of the Billy Graham Day School, and

Whereas, Ed O'Herron was active in the Christ Episcopal Church in Charlotte, where he served as a Sunday schoolteacher; and

Whereas, Ed O'Herron died on July 26, 2006, at the age of 90; and

Whereas, Ed O'Herron is survived by three children, William P. O'Herron, Patricia O'Herron Norman, and Kennedy C. O'Herron; nine grandchildren; two step-grandchildren; and seven great-grandchildren; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Edward M. O'Herron, Jr., and expresses the appreciation of this State and its citizens for his contributions to North Carolina.

SECTION 2. The General Assembly extends its sympathy to the family of Edward M. O'Herron, Jr., for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Edward M. O'Herron, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 2008.

Resolution 2008-29

H.J.R. 2801

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN L. MCCAIN, FORMER PHYSICIAN.

Whereas, John L. McCain was born on April 11, 1927, in Sanitorium, North Carolina (now known as McCain, North Carolina, to Dr. Paul Pressly McCain and Sadie McBrayer McCain; and

Whereas, John L. McCain was reared on the grounds of the State Tuberculosis Sanitorium, where his father served as Director of the State sanatoria system; and

Whereas, John L. McCain interrupted his college education to serve in the United States Navy during World War II; and

Whereas, after serving in the navy, John L. McCain continued his education, graduating from the University of North Carolina at Chapel Hill with a bachelor's degree in chemistry and from the University of Virginia School of Medicine; and

Whereas, Dr. McCain completed his internship at the Philadelphia General Hospital in Philadelphia, Pennsylvania, and his residencies in internal medicine at the North Carolina Memorial Hospital in Chapel Hill and the Medical College of Virginia in Richmond, Virginia; and

Whereas, Dr. McCain was a Diplomate of the American Board of Internal Medicine and a Fellow of the American College of Physicians; and

Whereas, Dr. McCain was a founding Fellow of the American Rheumatism Association and a Fellow of the American College of Rheumatology; and

Whereas, Dr. McCain devoted his life to providing the best of care to the citizens of Wilson County and the surrounding areas, serving as a physician in an active clinic as well as a solo practice for more than 49 years; and

Whereas, Dr. McCain was a Certified Medical Director of Skilled Nursing Facilities and served as Medical Director of several nursing facilities, including the Avante Group Nursing and Rehabilitation Centers, WilMed Nursing Care Center, Brian Center Health and Rehabilitation Center, and Britthaven of Wilson; and

Whereas, Dr. McCain was able to share his skills and abilities with other medical professionals, serving as an Associate Clinical Professor of Medicine at the University of North Carolina at Chapel Hill School of Medicine, as a lecturer for the Bowman Gray School of Medicine, and as Chair of the medical staff of Wilson Memorial Hospital; and

Whereas, Dr. McCain served his profession proudly as President of the Wilson County Medical Society, Fourth District Medical Society, Seaboard Medical Association, North Carolina Mental Health Association, North Carolina Mental Health Research Foundation, Central Coastal Plain Health Planning Council, Eastern Carolina Health Systems Agency, North Carolina Society of Internal Medicine, and the University of North Carolina at Chapel Hill Medical Alumni Association; and

Whereas, Dr. McCain also made significant contributions as Chair of North Carolina Health Coordinating Council, Professional Advisory Council of the North

Carolina State Board of Mental Health, and Geriatrics Task Force of the American Society of Internal Medicine; and

Whereas, Dr. McCain served as a member of the North Carolina Arthritis Foundation, North Carolina Heart Association, Medical Mutual Liability Insurance Company of North Carolina, the Wilson-Green Area Mental Health Authority, the Wilson County Senior Citizens Council, and the Home Health and Hospice Board of Directors; and

Whereas, Dr. McCain was appointed by President Jimmy Carter to the National Council on Health Planning and Development; and

Whereas, Dr. McCain received numerous honors and awards for his many years of service to his profession, including the Distinguished Service Award from the University of North Carolina at Chapel Hill School of Medicine, the Government Affairs Program Award from the North Carolina Arthritis Foundation, and the Order of the Long Leaf Pine; and

Whereas, in 2004, Dr. McCain and his wife, Betty, were named "Wilsonians of the Year" by the local chapter of the American Red Cross; and

Whereas, Dr. McCain was a member of the First Presbyterian Church of Wilson, North Carolina, where he served as a deacon, elder, and choir member; and

Whereas, Dr. McCain died on June 29, 2005, after leading a very distinguished life; and

Whereas, Dr. McCain is survived by his wife, Betty Ray McCain; children, Paul P. McCain, III and Eloise McCain Hassell; grandchildren, Elizabeth, Emily, and John L. McCain, II and Molly and Bayly Hassell; and sister, Sara McCain McCollum; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Dr. John L. McCain and expresses its appreciation for his life and for his service to Wilson County, the State of North Carolina, and the nation.

SECTION 2. The General Assembly expresses its sympathy to the family of Dr. John L. McCain 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 Dr. John L. McCain.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 2008.

Resolution 2008-30

S.J.R. 1634

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF DAVID MCCOY AS STATE CONTROLLER.

Whereas, under the provisions of G.S. 143B-426.37, the appointment by the Governor of a person to be State Controller is subject to confirmation by the General Assembly; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the name of his appointee, David McCoy, to be State Controller, to serve a term to begin July 1, 2008, and expire June 30, 2015; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The appointment of David McCoy as State Controller for a term to begin July 1, 2008, and expire June 30, 2015, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Resolution 2008-31

S.J.R. 2172

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2007 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 2007 Session of the General Assembly, adjourn on Friday, July 18, 2008, 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, 2008.

Resolution 2008-32

H.J.R. 2808

A JOINT RESOLUTION ADJOURNING THE RECONVENED SESSION.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. When the House of Representatives and the Senate, constituting the Reconvened 2007 Session of the 2007 General Assembly, adjourn, they stand adjourned sine die.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of August, 2008.

**EXECUTIVE ORDERS
OF
GOVERNOR MICHAEL F. EASLEY**

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State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 124 REPLACING EXECUTIVE ORDER NO. 86, STATEWIDE FLEXIBLE BENEFITS PROGRAM

WHEREAS, State employees are an important resource to State government; and

WHEREAS, the State needs to provide a uniform competitive compensation package that includes an up-to-date benefits program in order to maintain its competitive edge with businesses and other states in its region; and

WHEREAS, the State needs to provide the same tax-advantaged benefits to all State employees, regardless of the agency, department, university or community college where they work; and

WHEREAS, the reasonable cost of administering an efficiently designed flexible benefits program could be recovered by the savings associated with such a program;

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Policy.

A statewide employee flexible benefits coordination effort is hereby formalized for the purpose of administering these benefits to employees and to promote the development and maintenance of a competitive compensation package for all State employees in conjunction with the provisions of G.S. § 126-95.

Section 2. Administration.

There is created within the Office of State Personnel a Statewide Employee Flexible Benefits Program (SEFBP). The State Personnel Director shall be responsible for central flexible benefits coordination for all State employees. The administration of the statewide flexible benefits plan shall become the responsibility of SEFBP. This program shall begin the process of assessing the flexible benefits plan design, administrative procedures, administrative capabilities, and communications needs for the implementation of a comprehensive statewide flexible benefits plan. These responsibilities include, but are not limited to the following:

- a. implementing the Statewide Flexible Benefits Plan;
- b. administering contracts for supplemental insurance carriers and third party administrators for spending accounts and premium conversion plans participating in the SEFBP;
- c. coordinating administration of spending accounts;
- d. coordinating enrollment and communication efforts concerning the SEFBP and other benefit programs;
- e. coordinating the Statewide Flexible Benefits Advisory Committee; and
- f. speaking on behalf of State government flexible benefits in the Legislature.

Section 3. Statewide Flexible Benefits Advisory Committee.

There is hereby established a Statewide Flexible Benefits Advisory Committee (FBAC) for the purpose of assisting the State in developing and maintaining an effective flexible benefits plan for State employees. The FBAC shall make recommendations to the State Personnel Director concerning the administration of the Flexible Benefits Plan and the components of the flexible benefits package for State employees.

Section 4. Duties of the FBAC.

The FBAC shall be responsible for the following:

- a. assisting the SEFBP in developing administrative functions;

- b. reviewing existing flexible benefit programs in State government;
- c. recommending pre-tax benefits to be included in the SEFBP;
- d. assisting in reviewing contracts and administering spending accounts; and
- e. undertaking other functions as necessary.

Section 5. Membership.

The membership of the FBAC shall consist of 14 members and three ex-officio members.

Members shall be appointed to a three-year staggered term. Members are as follows:

- a. a representative from the State Controller's Office;
- b. a representative from the State Treasurer's Office;
- c. a representative from the State Budget Office;
- d. a representative from the Attorney General's Office;
- e. a representative from the State Health Benefits Office;
- f. a representative from the Administrative Office of the Courts;
- g. a representative from the Department of Environment and Natural Resources;
- h. a representative from the University of North Carolina System;
- i. a representative from the State Employees Association;
- j. a representative from the Department of Health and Human Services;
- k. a representative from the Department of Transportation
- l. a representative from the Department of Correction; and
- m. two representatives of the private sector.


One representative each from the Department of Public Instruction and one from the Community College System shall serve as ex officio members. The SEFBP Manager shall serve as a voting ex officio member and provide support staff as required.

The Director of the Office of State Personnel shall appoint a Chair from among the membership for a one-year term.

This Executive Order is effective immediately and shall remain in effect until rescinded by the Governor.


IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventh day of September in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

**EXECUTIVE ORDER NO. 125
EXTENDING EXECUTIVE ORDER NO. 84,
NORTH CAROLINA EMERGENCY RESPONSE COMMISSION**

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. 84, regarding the North Carolina Emergency Response Commission is hereby extended.

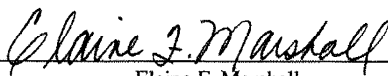
This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventh day of September in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 126
EXTENDING EXECUTIVE ORDER NO. 89,
FOOD SAFETY AND DEFENSE TASK FORCE

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. 89, regarding the Food Safety and Defense Task Force is hereby extended until September 11, 2009.

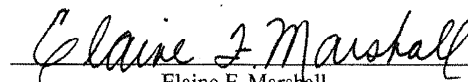
This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventh day of September in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 127 EXTENDING EXECUTIVE ORDER NO. 91, GOVERNOR'S TASK FORCE FOR HEALTHY CAROLINIANS

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. 91, regarding the Governor's Task Force for Healthy Carolinians is hereby extended until September 26, 2009.

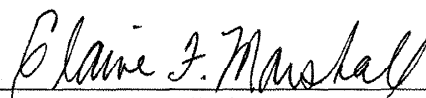
This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventh day of September in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 128 GOVERNOR'S ADVISORY COUNCIL ON HISPANIC/LATINO AFFAIRS

WHEREAS, the Hispanic/Latino community plays a vital role in the economy of North Carolina; and

WHEREAS, North Carolina has experienced a tremendous increase of Hispanic/Latino residents into the state; and

WHEREAS, the Hispanic/Latino community is contributing to the economic development and progress of the state by working in different sectors of the labor market and by participating in civic affairs; and

WHEREAS, many unique challenges confront the Hispanic/Latino community as they attempt to access housing, health care, and employment services; and

WHEREAS, the state should promote and encourage collaboration and collaborative planning and delivery of services among state agencies that serve the Hispanic/Latino community.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Membership Composition

The Governor's Advisory Council on Hispanic/Latino Affairs is hereby established. It shall be composed of 15 voting members who shall serve at the pleasure of the Governor. In addition to the 15 appointed members, the following or their designees shall serve as ex-officio, non-voting members:

- a. The Secretary of the Department of Administration
- b. The Secretary of the Department of Commerce
- c. The Secretary of the Department of Health and Human Services;

- d. The Secretary of the Department of Crime Control and Public Safety;
- e. The Secretary of the Department of Revenue;
- f. The Governor's Legal Counsel;
- g. The Commissioner of the Division of Motor Vehicles; and
- h. The Chairman of the Employment Security Commission.

The following individuals, or their designees, are invited to serve as ex-officio, non-voting members of the Advisory Council:

- a. The Commissioner of the North Carolina Department of Agriculture and Consumer Services;
- b. The Commissioner of Labor;
- c. The Attorney General,
- d. The Superintendent of Public Instruction; and
- e. The Honorary Consul of Mexico.

Section 2. Meetings

The Advisory Council shall meet quarterly or at the call of the chair. The chair shall set the agenda for the Advisory Council's meetings. The Advisory Council may establish such committees or other working groups as are necessary to assist in performing its duties.

Section 3. Duties

The Advisory Council shall have the following duties:

- a. Advise the Governor on issues relating to the Hispanic/Latino community in North Carolina;
- b. Support state efforts toward the improvement of race and ethnic relations;
- c. Provide a forum for the discussion of issues concerning the Hispanic/Latino community in North Carolina;
- d. Promote cooperation and understanding between the Hispanic/Latino community, the general public, the state, federal, and local governments; and
- e. Perform other duties as directed by the Governor.

Section 4. Administration

Support staff for the Advisory Council shall be provided by the Governor's Office and other cabinet departments as directed by the Governor. Members shall serve without

compensation, but may receive reimbursement, contingent upon the availability of funds, for travel and subsistence in accordance with North Carolina General Statutes §§ 138-5, 138-6, and 120-3.1

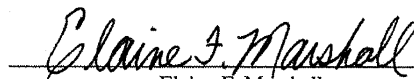
This executive order shall be effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventh day of September in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

**EXECUTIVE ORDER NO. 129
EXTENDING EXECUTIVE ORDER NO. 123
EMERGENCY RELIEF FOR DAMAGE CAUSED BY DROUGHT**

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. 123, regarding emergency relief for damage caused by the drought, is hereby extended until December 31, 2007, based on a review of current market and weather conditions and on the recommendation of the Commissioner of the North Carolina Department of Agriculture and Consumer Services.

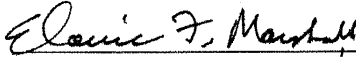
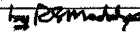
This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twentieth day of September in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall 
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 130 PROCLAMATION OF STATE DISASTER FOR THE TOWN OF SPRUCE PINE

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. § 166A-4(1), exists in the State of North Carolina, specifically in the Town of Spruce Pine, Mitchell County, as a result of a fire which destroyed or damaged numerous businesses, residences, and a church in the downtown area on August 4-5, 2007.

WHEREAS, on August 5, 2007, the Town of Spruce Pine proclaimed a local State of Emergency; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a 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 Town of Spruce Pine, Mitchell County, declared a local state of emergency pursuant to N.C.G.S. § 166A-8 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 laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Pursuant to N.C.G.S. § 166A-6, a State of Disaster is hereby declared for the Town of Spruce Pine.

Section 2. All 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 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 town.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. § 143B-476.

Section 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 Type I disaster proclamation for the Town of Spruce Pine 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.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-fifth day of September in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 131 PROCLAMATION OF STATE DISASTER FOR THE TOWN OF TRYON

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. § 166A-4(1), exists in the State of North Carolina, specifically in the Town of Tryon, Polk County, as a result of damage caused by a severe windstorm on April 15-16, 2007.

WHEREAS, on April 16, 2007, the Town of Tryon proclaimed a local State of Emergency; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a 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 Town of Tryon, Polk County, declared a local state of emergency pursuant to N.C.G.S. § 166A-8 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 laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Pursuant to N.C.G.S. § 166A-6, a State of Disaster is hereby declared for the Town of Tryon.

Section 2. All 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 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 town.


Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. § 143B-476.

Section 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 Type I disaster proclamation for the Town of Tyron 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.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of November in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 132 PROCLAMATION OF STATE DISASTER FOR THE TOWN OF TAYLORSVILLE

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. § 166A-4(1), exists in the State of North Carolina, specifically in the Town of Taylorsville, Alexander County, as a result of damage caused by a severe windstorm on April 15-16, 2007.

WHEREAS, on April 17, 2007, the Town of Taylorsville proclaimed a local State of Emergency; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a 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 Town of Taylorsville, Alexander County, declared a local state of emergency pursuant to N.C.G.S. § 166A-8 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 laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-6, a State of Disaster is hereby declared for the Town of Taylorsville.

Section 2. All 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 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 town.

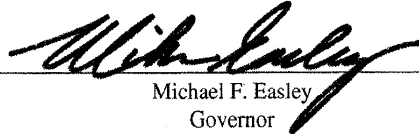
Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. § 143B-476.

Section 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.

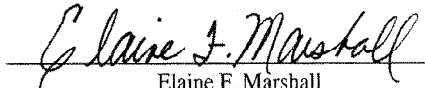
Section 6. The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and Type I disaster proclamation for the Town of Taylorsville unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total 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.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of November in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 133 REPLACING EXECUTIVE ORDER NO. 83, JUVENILE JUSTICE PLANNING COMMITTEE

WHEREAS, the Executive Organization Act of 1973 established the Governor's Crime Commission; and,

WHEREAS, North Carolina General Statute § 143B-480, creates the Juvenile Justice Planning Committee as an adjunct committee to advise the Governor's Crime Commission on matters referred to it which are relevant to juvenile justice; and

WHEREAS, pursuant to North Carolina General Statute § 143B-480, the composition of the Juvenile Justice Planning Committee shall be designated by the Governor through executive order; and

WHEREAS, the federal Juvenile Justice and Delinquency Act of 1974, as amended, requires states to establish advisory boards to administer juvenile justice and delinquency prevention grants from the United States Department of Justice; and

WHEREAS, the Juvenile Justice Planning Committee is ideally suited to serve as such an advisory board consistent with federal law.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Membership Composition

The Juvenile Justice Planning Committee shall consist of no less than 15 and no more than 33 members each appointed by the Governor and each having training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice.

The majority of the members, as well as the chair, shall not be full-time employees of federal, state, or local government. At least one-fifth of the members shall be under the age of

twenty-four at the time of appointment and at least three members shall be currently or have been under the jurisdiction of the juvenile justice system.

The Governor shall appoint at least one representative from the following:

1. Elected officials representing general purpose local government.
2. Representatives of law enforcement and juvenile justice agencies, which may include a juvenile or family court judge, a juvenile or local prosecutor, a counsel for children and youth, or a probation worker.
3. Representatives of public agencies concerned with delinquency prevention, which may include a social services agency, a mental health agency, a state education agency, a special education program, a recreation program, or a youth services agency.
4. Private non-profit agencies working with children.
5. Volunteers who work with delinquents or potential delinquents.
6. Youth workers in alternative programs.
7. Programs providing alternatives to suspension and expulsion.
8. Persons with special experience relating to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence.
9. State or local police departments.
10. Local sheriff's departments.
11. Private non-profit, victim's advocacy organizations (guardian ad litem).
12. Non-profit religious or community groups.

Section 2. Terms of Service

The terms of service for the members shall be for two-years provided, however, that the Governor may remove any member at any time for misfeasance, malfeasance or nonfeasance if necessary and to ensure continued compliance with federal requirements.

Section 3. Chair

The chair of the Juvenile Justice Planning Committee shall be designated by, and shall serve at the pleasure of, the chair of the Governor's Crime Commission.

Section 4. Meetings

The Juvenile Justice Planning Committee shall meet upon the call of the chair or upon written request of one-third of its membership. A majority of the committee shall constitute a quorum for the transaction of business.

Section 5. Administration of Federal Grants

The Juvenile Justice Planning Committee shall serve as North Carolina's advisory board for purposes of administering juvenile justice and delinquency prevention grants from the Department of Justice.

Section 6. Duration

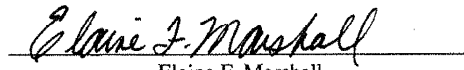
This executive order shall be effective immediately and shall remain in effect until December 1, 2008.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of November in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 134
EXTENDING EXECUTIVE ORDER NO. 123
EMERGENCY RELIEF FOR DAMAGE CAUSED BY DROUGHT

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. 123, regarding emergency relief for damage caused by the drought, is hereby extended until January 31, 2008, based on a review of current market and weather conditions and on the recommendation of the Commissioner of the North Carolina Department of Agriculture and Consumer Services.

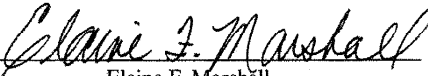
This order is effective immediately and shall remain in affect for 30 days or the duration of the emergency whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twentieth day of December in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 135 AMENDING AND EXTENDING EXECUTIVE ORDER NO. 123 EMERGENCY RELIEF FOR DAMAGE CAUSED BY DROUGHT

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. 123, regarding emergency relief for damage caused by the drought, is hereby amended to include all 100 counties and is hereby extended until April 30, 2008, based on a review of current market and weather conditions and on the recommendation of the Commissioner of the North Carolina Department of Agriculture and Consumer Services.

This order is effective immediately and shall remain in affect for the specified time mentioned above or the duration of the emergency whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fourth day of February in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 136 REESTABLISHING THE NORTH CAROLINA COMMISSION ON VOLUNTEERISM AND COMMUNITY SERVICE

WHEREAS, the increasing realization of the importance of volunteerism and civic participation, the growing recognition of community service as a means of community and state problem-solving, and the revival of national services as an avenue for addressing many of the country's unmet social, environmental, educational, and public safety needs have revealed new options for enhancing the quality of life for North Carolinians; and,

WHEREAS, promoting the capability of North Carolina's people, communities, and enterprises to work collaboratively is vital to the long-term prosperity of this state; and

WHEREAS, building and encouraging community services as an integral part of the formula to our growth as a state and as a nation requires cooperative efforts by the public sector, the private sector, the nonprofit sector, and partnerships among these sections; and

WHEREAS, a State Commission is necessary to advise and assist in the development of a comprehensive, statewide service plan for promoting volunteer involvement and citizen participation in North Carolina;

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Establishment

The North Carolina Commission on Volunteerism and Community Service ("Commission") is hereby established to encourage community service and volunteer participation as a means of community and state problem-solving; to promote and support voluntary citizen involvement in government and private programs throughout the state; to develop a long-term, comprehensive vision and plan of action for community service initiatives

in North Carolina; and to serve as the state's liaison to national and state organizations which support its mission.

Section 2. Membership Composition

- a. All members of the Commission shall be appointed by the Governor. It shall consist of no fewer than 15 and no more than 25 members. Not more than 50 percent of the Commission plus one member may be from the same political party. To the extent possible, it shall be diverse in race, ethnicity, age, disability, and gender. Terms shall be for three years and shall be staggered.
- b. The Commission shall include:
 1. An individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth.
 2. An individual with experience in promoting the involvement of older adults in service and volunteerism.
 3. A representative of community-based agencies or community-based organizations within the State.
 4. The Superintendent of the Department of Public Instruction, or his designee.
 5. A representative of local governments in the State.
 6. A representative of local labor organizations in the State.
 7. A representative of business.
 8. At least two Commission members shall be individuals between the ages of 16 and 25 who are service providers or recipients in a volunteer or service program.
 9. A representative of the Corporation for National and Community Service described in Section 122(a) of the United States Public Law 103-82 ("P.L."), as a non-voting, ex officio member.
 10. A designee from the Governor's Office and the Director of the Department of Public Instruction's Learn and Serve School-Based Program shall serve as non-voting ex-officio members.
- c. The Commission may include:
 1. Members selected from among local educators.
 2. Members selected from among experts in the delivery of human, educational, environmental, or public safety services to communities and persons.
 3. Representatives of Native American tribes.
 4. Members selected from among out-of-school youth or other "at-risk" youth.
 5. Representatives of entities that receive assistance under the domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).
- d. Not more than 25 percent of the Commission members may be employees of state government, though additional state agency representatives may sit on the Commission as non-voting, ex officio members.

- e. Vacancies among the members shall be filled by the Governor to serve for the remainder of the unexpired term.

Section 3. Officers

The Officers of the Commission shall be Chair and Vice-Chair. All officers shall be elected by the voting Commission members from among their ranks and officers shall serve for a term of one year. Vacancies in any offices shall be filled with an election by the Commission for the remainder of the unexpired term.

- a. Chair: It shall be the responsibility of the Chair to preside at all meetings of the Commission; to appoint all committee chairs; to assist all committee chairs in the planning of committee activities; to supervise all chairs as to the management of committee plans; to authorize and execute the wishes of the board; and to be an ex officio member of all committees.
- b. Vice-Chair: The Vice-Chair shall assist the Chair, and, in the absence of the Chair, perform those duties. The Vice-Chair shall accept special assignments from the Chair and perform other duties as delegated by the Commission.

Section 4. Standing Committees

The Standing Committees shall advise and assist the Commission in carrying out its duties and responsibilities. Committee chairs shall be appointed by the Commission Chair from among Commission members, but the committees' members need not be limited to commission members. The Commission Chair, in consultation with the Committee Chairs, shall name the committees' members. Standing Committees of the Commission may include:

- a. Volunteer Recognition: The Standing Committee on Volunteer Recognition shall assist with the implementation of Governor's awards relating to exemplary volunteer service in the State; work with individual communities to develop local recognition programs; and explore additional opportunities to recognize individuals and organizations addressing community needs through volunteer service.
- b. Evaluation: The Standing Committee on Evaluation shall evaluate each program funded by the Corporation for National and Community Service (described in the P.L. 103-82) and state organizations which support the purpose of the Commission to assure their on-going quality.
- c. Community Collaboration: The Standing Committee on Community Collaboration shall promote communication and information sharing between state and local private and public initiatives to meet community needs.

- d. Resource Development: The Standing Committee on Resource Development shall develop and implement strategies to secure local, state, and federal resources to reinforce, expand, and initiate quality community programs across the state.
- e. Training: The Standing committee on Training will develop and implement strategies for training and technical assistance to community service programs, potential grant applicants and State commission-funded programs, as well as work towards building service program partnerships statewide.
- f. Service Learning: The Standing Committee on Service Learning will act as a liaison between the State commission, private and public institutions of higher education and the Department of Public Instruction to shape the service learning state plan and promote service learning in community-based and school-based programs and partnerships across the state.

Section 5. Meetings

The Commission shall meet at least quarterly. Failure to attend at least 75 percent of called meetings in any calendar year shall result in removal from the Commission. A quorum shall consist of a simple majority of voting members.

Section 6. Duties

The Commission shall, in the performance of its tasks and functions:

- a. Ensure that its funding decisions meet all federal and state statutory requirements.
- b. Recommend innovative, creative, statewide service programs to increase volunteer participation in all age groups and community-based problem-solving among diverse participants.
- c. Develop and implement a centralized, organized system of obtaining information and technical support concerning volunteerism and community service recruitment, projects, training methods, materials, and activities throughout North Carolina. Share such information and support upon request.
- d. Promote strong interagency collaboration as an avenue for maximizing resources and provide that model on the State level.
- e. Provide public recognition and support of individual volunteer efforts and successful or promising private sector initiatives and public/private partnerships which address community needs.
- f. Stimulate increased community awareness of the impact of volunteer services in North Carolina.

- g. Utilize local, state, and federal resources to reinforce, expand, and initiate quality service programs.
- h. Serve as the state's liaison and voice to appropriate national and state organizations which support its mission.
- i. Prepare a national three-year service plan for the State which follows state and federal guidelines.
- j. Prepare the financial assistance applications of the State under Sections 117B and 1301 of the P.L. 103-82.
- k. Assist in the preparation of the application of the North Carolina Department of Public Instruction for assistance under Section 113 of the P.L. 103-82.
- l. Prepare the State's application under Section 130 for the approval of service positions such as the national service educational award described in Subtitle D of the P.L. 103-82.
- m. Make technical assistance available to enable applicants for assistance under Section 121 to plan and implement service programs; and to apply for assistance under the federal service laws such as the P.L. 103-82.
- n. Assist in the provision of health care and child care benefits under Section 140 to participants in national service programs that receive assistance under Section 121 of the P.L. 103-82.
- o. Develop a state system for the recruitment and placement of participants in programs that receive assistance under the national service laws and disseminate information concerning national service programs that receive such assistance or approved national service positions.
- p. Administer the State's grant program in support of national service programs (using assistance provided to the State under Section 121 of the P.L. 103-82) including selection, oversight, and evaluation of grant recipients.
- q. Coordinate its functions (including recruitment, public awareness, and training activities) with any division of the federal ACTION program or the Corporation for National and Community Services outlined in the P.L. 103-82.

Section 7. Administration and Expenses


The Governor's Office shall provide necessary administrative and staff support services to the Commission. The Commission is authorized to accept funds and in-kind services from other state and federal entities, as authorized by the North Carolina State Budget Act. No

per diem allowance shall be paid to members of the Commission. Members of the Commission and staff may receive necessary travel and subsistence expenses in accordance with state law. These expenses shall be paid from federal funds where possible. If federal funds are not available, these expenses may be paid only if the Governor's Office has sufficient funds.

This executive order shall be effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventh day of February in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 137 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 member 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 three (3) 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.


Section 8. Effective Date

Executive Order 56 and as amended by Executive Order 104 is hereby rescinded.

This order is effective immediately.


IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of February in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 138 AMENDING EXECUTIVE ORDER NO. 84 REGARDING THE NORTH CAROLINA EMERGENCY RESPONSE COMMISSION

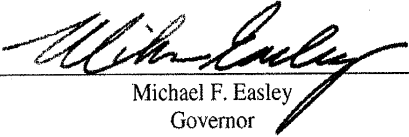
By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED THAT:**

Executive Order No. 84, North Carolina Emergency Response Commission, issued by Michael F. Easley on September 7, 2005, is hereby amended to reflect the expansion of the following duties under Section 2.

- a. The Commission will act in an advisory capacity to the State Administrative Agent (SAA), as designated by the Governor, to provide input regarding the activities of the North Carolina State Homeland Security Program (SHSP) and the Domestic Preparedness and Readiness Regions (DPRR). Specifically the Commission will:
 1. Review the State Homeland Security Strategy (SHSS) to insure it is aligned with Local, State and Federal priorities as required by the U.S. Department of Homeland Security (DHS), and that its goals and objectives are being met in accordance with program intent.
 2. Review U.S. Department of Homeland Security Grant Program (HSGP) applications and allocations for State and Regional homeland security-related projects.
 3. Review plans for preventing, preparing, responding, and recovering from acts of terrorism and all hazards, man-made, or natural.
- b. The Commission will act in an advisory capacity to provide coordinated stakeholder input to the Secretary of the Department of Crime Control and Public Safety and the Division of Emergency Management in the preparation, implementation, evaluation, and revision of the North Carolina emergency management program.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-seventh day of February in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 139 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:**

Section 1. Establishment

The North Carolina State Health Coordinating Council (Council) is hereby established.

Section 2. Duties

The Council shall have the following duties and functions:

- a. serve as a forum for hearing regional concerns and recommendations relating to health planning;
- b. compile a list of state health needs and advise the Department of Health and Human Services;
- c. advise the Department of Human Resources on issues related to state health needs, giving attention to local, regional, and statewide needs.
- d. review and comment on contents of documents related to health planning and make recommendations concerning them to the Secretary of Human Resources and the Governor;
- e. advise the Department of Health and Human Services on cost-effective mechanisms for achieving health needs;
- f. prepare the Annual State Medical Facilities Plan and present the plan to the Governor.

Section 3. Membership

The Council shall consist of 29 members who shall be appointed by the Governor as

follows:

- a. one member from the academic medical centers;
- b. one member from the area health education centers;
- c. two members from business and industry (at least one individual representing small business and one representing large business);
- d. one member from the health insurance industry;
- e. one member from the North Carolina Association of County Commissioners;
- f. one member from the North Carolina Health Care Facilities Association;
- g. one member from the North Carolina Hospital Association;
- h. one member from the North Carolina Association for Home Care;
- i. one member from the North Carolina Association of Long-Term Care Facilities;
- j. one member from the North Carolina Association of Local Health Directors;
- k. one member from the North Carolina Medical Society;
- l. one member from the North Carolina House of Representatives;
- m. one member from the North Carolina Senate;
- n. one member from the United States Department of Veterans Affairs (non-voting);
- o. fourteen at-large members to represent other health professional associations and to ensure regional representation.

Section 4. Terms of Membership

The terms of membership of the Council shall be staggered so that the terms of approximately one-third of the members shall expire in a single calendar year. All members shall

be appointed for a term of three years. Terms shall expire on December 31 and new terms shall begin on January 1.

Section 5. Vacancies

A vacancy occurring during a term of appointment is filled in the same manner as the original appointment and for the balance of the unexpired term.

Section 6. Travel Expenses

Members of the Council shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. §138-5.

Section 7. Chairman

The Chairman and Vice Chairman of the Council shall be appointed by the Governor. The term of office for the Chairman and Vice Chairman shall be two calendar years. The Council may elect other such officers as it deems necessary.

Section 8. Meetings

The Council shall meet quarterly and at other times at the call of the Chairman or upon written request of at least ten (10) of its members. All business meetings of the Council, its committees and subcommittees, or special task forces shall be open to the public.

Section 9. Staff Assistance

The Department of Health and Human Services shall provide clerical support and other services required by the Council.

Section 10.

Executive Order No. 98 is hereby rescinded.

This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this third day of March in the

year of our Lord two thousand and eight, and of the Independence of the United States of
America the two hundred and thirty-second.



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. 140 TERMINATION OF EXECUTIVE ORDER 82

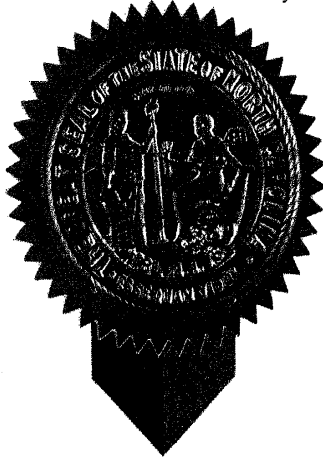
WHEREAS, Executive Order No. 82 was signed on September 3, 2005, declaring a State of Emergency as a result of humanitarian relief efforts conducted by North Carolina to support the states affected by the devastation brought about by Hurricane Katrina which began on August 29, 2005; and,


WHEREAS, the executive order contained the provision that it would be effective until terminated in writing.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Executive Order 82, dated September 3, 2005, is hereby terminated due to the cessation of this emergency.

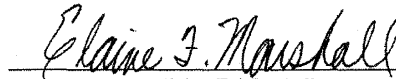
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirtieth day of April in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 141 PROCLAMATION OF A STATE OF DISASTER FOR BERTIE AND ONSLOW COUNTIES

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. §§166A-6, exists in the State of North Carolina, specifically Bertie and Onslow counties, as a result of tornadoes and severe weather on May 8-11, 2008;

WHEREAS, on May 11, 2008, Bertie and Onslow counties proclaimed a local State of Emergency;

WHEREAS, pursuant to N.C.G.S. §166A-6, the criteria of a 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) Bertie and Onslow counties declared a local state of emergency pursuant to N.C.G.S. §§166A-8 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; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

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, a State of Disaster is hereby declared for Bertie and Onslow counties.

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 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 North Carolina.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. §143B-476.


Section 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. This Type I Disaster Declaration shall expire 30 days after issuance of the state of disaster and Type I disaster proclamation for Bertie and Onslow counties issued on May 20, 2008, 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 of first

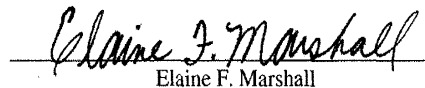
issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the twentieth day of May in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 142 PROCLAMATION OF STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

Section 1. I have determined that a state of emergency, as defined in Chapter 166A of the North Carolina General Statutes, exists in Hyde, Tyrrell, and Washington counties, due to a wildfire, which began on June 1, 2008, and which has threatened the health, safety, and protection of citizens and produced hazardous travel conditions.

Section 2. Pursuant to Chapter 166A of the North Carolina General Statutes, I, therefore, proclaim the existence of a state of emergency in Hyde, Tyrrell, and Washington counties.

Section 3. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 4. I hereby delegate to Bryan E. Beatty, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A of the North Carolina 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 declared counties.

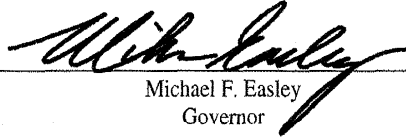
Section 5. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. § 143B-476.

Section 6. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 7. This proclamation shall become effective immediately and shall continue until it is terminated in writing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixth day of June in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.



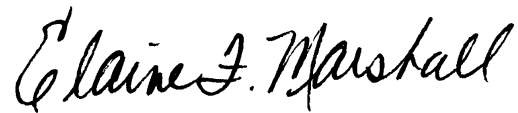

Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE,
RALEIGH, AUGUST 27, 2008

I, ELAINE F. MARSHALL, Secretary of State of North Carolina, hereby certify pursuant to G.S. 120-34 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

**THE JOINT CONFERENCE COMMITTEE REPORT
ON THE
CONTINUATION, EXPANSION
AND CAPITAL BUDGETS**

House Bill 2436

**North Carolina General Assembly
2008 Session**

July 3, 2008

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**Budget Reform Statement
General Fund Availability**

	FY 2008-09
1 Unappropriated Balance from FY 2007-08, S.L. 2007-323	270,504,098
2 Net Adjustment - S.L. 2007-540	(1,000,000)
3 Adjustment from Estimated to Actual 2007-08 Beginning Unreserved Balance	47,867,864
4 Projected Reversions from FY 2007-08	170,000,000
5 Projected Overcollections from FY 2007-08	88,700,000
6 Less: Credit to Repairs and Renovation Reserve Account	(69,839,238)
7 Beginning Unreserved Fund Balance	506,232,724
8	
9 Revenues Based on Existing Tax Structure	19,903,800,000
10	
11 Non-tax Revenues	
12 Investment Income	247,300,000
13 Judicial Fees	204,800,000
14 Disproportionate Share	100,000,000
15 Insurance	62,900,000
16 Other Non-Tax Revenues	160,600,000
17 Highway Trust Fund Transfer	172,500,000
18 Highway Fund Transfer	17,600,000
19 Subtotal Non-tax Revenues	965,700,000
20	
21 Total General Fund Availability	21,375,732,724
22	
23 Adjustments to Availability: 2006 Session	
24 Adjustments for Economic Uncertainty	(45,000,000)
25 Extend Sunset for State Ports Tax Credit	(1,000,000)
26 Extend Credit for Research & Development	(1,000,000)
27 Modify Estate Tax Law	(2,000,000)
28 Exempt Disaster Assistance Debit Sales	(500,000)
29 Sales Tax Holiday for Certain Energy Star Rated Appliances	(1,400,000)
30 Extend Sunset for Small Business Employee Health Benefits Tax Credit	(8,500,000)
31 State Sales Tax Exemption for Baked Goods Sold By Artisan Bakeries	(1,600,000)
32 Small Businesses Protection Act	(2,200,000)
33 Excise Tax on Machinery Refurbishers	(300,000)
34 Expand Film Industry Credit and Extend Sunset	(100,000)
35 Expand Renewable Energy Tax Credit	(100,000)
36 Reserve for Tax Relief	(700,000)
37 Health Care Facility Construction Project Fee Service Regulation Fee Increase	822,028
38 Adjust Fee Receipts for Asbestos Hazard Management Program	71,615
39 Adjust Securities Filing Fee	1,993,500
40 Reduce Transfer to Highway Trust Fund	(25,000,000)
41 Transfer from Disaster Relief Reserve (Western NC Disasters)	26,000,000
42 Transfer from NC Rx Unexpended Balance	3,500,000
43 Transfer from Tobacco Trust Fund	5,000,000
44 Transfer from Health & Wellness Trust Fund	5,000,000
45 Transfer from Coaching Scholarship Fund	267,000
46 Transfer from Principal Fellows Trust Fund	1,000,000
47 Transfer from NC Community College System Computer Information System (CIS) Fund Balance	4,500,000
48 Transfer from Focused Industrial Training Unexpended Balance	783,246
49 Transfer from Disproportionate Share Reserve	19,300,000
50 Adjust Transfer from Insurance Regulatory Fund	633,492
51 Adjust Transfer from Treasurer's Office	763,829
52 Subtotal Adjustments to Availability: 2006 Session	(19,765,290)
53	
54 Revised General Fund Availability for 2008-09 Fiscal Year	21,355,967,434
55	
56 Less: Total General Fund Appropriations for 2008-09 Fiscal Year	(21,355,967,434)
57	
58 Unappropriated Balance Remaining	0

SUMMARY:

**GENERAL FUND
APPROPRIATIONS**

General Fund Appropriations						
Fiscal Year 2008-09						
2008 Session						
	Certified Appropriation 2008-09	Recurring Adjustments	Legislative Adjustments		Position Changes	Revised Appropriation 2008-09
			Nonrecurring Adjustments	Net Changes		
Education:						
Community Colleges	899,643,003	24,845,698	8,794,000	33,639,698	1.00	933,282,701
Public Education	7,708,315,285	(42,542,790)	136,274,043	93,731,253	0.00	7,802,046,538
University System	2,656,447,099	44,828,045	(18,017,530)	26,810,515	2.00	2,683,257,614
Total Education	11,264,405,387	27,130,953	127,050,513	154,181,466	3.00	11,418,586,853
Health and Human Services:						
Central Management and Support	62,592,178	(5,134,966)	(4,675,000)	(9,809,966)	0.00	52,782,212
Aging and Adult Services	35,745,179	2,000,000	500,000	2,500,000	0.00	38,245,179
Blind and Deaf / Hard of Hearing Services	11,434,643	0	75,000	75,000	0.00	11,509,643
Child Development	310,984,207	(6,110,422)	8,000	(6,102,422)	3.00	304,881,785
Education Services	38,855,457	0	698,940	698,940	0.00	39,554,397
Health Services Regulation	20,656,228	787,918	34,110	822,028	8.00	21,478,256
Medical Assistance	3,389,993,470	(204,606,516)	(6,215,491)	(210,822,007)	18.00	3,179,171,463
MH/DD/SAS	721,639,723	19,407,236	1,940,597	21,347,833	226.85	742,987,556
NC Health Choice	59,391,155	9,411,246	645,618	10,056,864	0.00	69,448,019
Public Health	182,162,710	2,050,131	4,755,406	6,805,537	2.00	188,968,247
Social Services	221,227,038	(455,218)	1,600,000	1,144,782	0.00	222,371,820
Vocational Rehabilitation	45,518,365	0	(2,000,000)	(2,000,000)	0.00	43,518,365
Total Health and Human Services	5,100,200,353	(182,650,591)	(2,632,820)	(185,283,411)	257.85	4,914,916,942
Justice and Public Safety:						
Correction	1,226,627,581	2,623,108	(2,333,291)	289,817	41.00	1,226,917,398
Crime Control & Public Safety	41,489,037	(182,404)	2,762,579	2,580,175	0.00	44,069,212
Judicial Department	452,389,917	(758)	(1,557,497)	(1,558,255)	32.25	450,831,662
Judicial - Indigent Defense	115,991,348	(1,770,057)	1,335,000	(435,057)	0.00	115,556,291
Justice	92,171,670	(189,120)	(237,638)	(426,758)	3.00	91,744,912
Juvenile Justice & Delinquency Prevention	139,556,104	20,831,264	(636,984)	20,194,280	30.00	159,750,384
Total Justice and Public Safety	2,068,225,657	21,312,033	(667,831)	20,644,202	106.25	2,088,869,859

General Fund Appropriations						
Fiscal Year 2008-09						
2008 Session						
	Certified Appropriation 2008-09	Recurring Adjustments	Legislative Adjustments Nonrecurring Adjustments	Legislative Adjustments Net Changes	Position Changes	Revised Appropriation 2008-09
Natural And Economic Resources:						
Agriculture and Consumer Services	60,699,001	(317,116)	5,277,705	4,960,589	6.00	65,659,590
Commerce	45,289,341	(1,590,267)	9,565,237	7,974,970	1.00	53,264,311
Commerce - State Aid	21,361,485	652,635	12,248,943	12,901,578	0.00	34,263,063
Environment and Natural Resources	192,815,663	854,336	11,419,398	12,273,734	26.62	205,089,397
DENR - Clean Water Mgmt. Trust Fund	100,000,000	0	0	0	0.00	100,000,000
Labor	16,594,951	901,392	0	901,392	5.00	17,496,343
NC Biotechnology Center	15,583,395	(155,834)	4,000,000	3,844,166	0.00	19,427,561
Rural Economic Development Center	24,302,607	(243,026)	54,000,000	53,756,974	0.00	78,059,581
Total Natural and Economic Resources	476,646,443	102,120	96,511,283	96,613,403	38.62	573,259,846
General Government:						
Administration	70,959,534	603,171	673,877	1,277,048	-3.00	72,236,582
Auditor	12,746,479	(283,938)	0	(283,938)	0.00	12,462,541
Cultural Resources	71,881,424	(439,633)	4,225,000	3,785,367	0.00	75,666,791
Cultural Resources - Roanoke Island	2,020,023	(15,000)	0	(15,000)	0.00	2,005,023
General Assembly	55,740,786	(636,000)	(245,000)	(881,000)	0.00	54,859,786
Governor	6,300,587	(84,205)	0	(84,205)	0.00	6,216,382
NC Housing Finance Agency	9,608,417	5,000,000	7,000,000	12,000,000	0.00	21,608,417
Insurance	30,936,704	613,492	20,000	633,492	6.00	31,570,196
Insurance - Worker's Compensation Fund	4,500,000	0	(1,150,000)	(1,150,000)	0.00	3,350,000
Lieutenant Governor	915,109	0	0	0	0.00	915,109
Office of Administrative Hearings	3,521,735	60,144	253,400	313,544	0.00	3,835,279
Revenue	85,330,611	(1,415,864)	0	(1,415,864)	-29.00	83,914,747
Secretary of State	10,743,041	136,877	(1,106)	135,771	4.00	10,878,812
State Board of Elections	9,626,868	414,226	168,708	582,934	5.00	10,209,802
State Budget and Management	5,877,440	15,242	0	15,242	1.00	5,892,682
State Budget and Management -- Special	5,621,446	300,000	16,650,000	16,950,000	0.00	22,571,446
State Controller	20,727,698	(110,940)	0	(110,940)	0.00	20,616,758
Treasurer - Operations	9,326,190	763,829	0	763,829	6.00	10,090,019
Treasurer - Retirement / Benefits	9,458,957	1,027,851	0	1,027,851	0.00	10,486,808
Total General Government	425,843,049	5,949,252	27,594,879	33,544,131	-10.00	459,387,180
Transportation	0	0	0	0	0	0

General Fund Appropriations						
Fiscal Year 2008-09						
2008 Session						
	Certified	Recurring	Legislative Adjustments	Position	Revised	
	Appropriation	Adjustments	Nonrecurring	Changes	Appropriation	
	2008-09	Adjustments	Adjustments	Changes	2008-09	
			Net			
			Changes			
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	659,016,907	0	(17,500,000)		641,516,907	
Federal Reimbursement	1,616,380	0	0		1,616,380	
Subtotal Debt Service	660,633,287	0	(17,500,000)	0.00	643,133,287	
Statewide Reserves:						
Compensation Increases	500,807,621	360,192,676	8,651,912	368,844,588	869,652,209	
Salary Adjustment Fund 2007-09 Biennium	23,688,000	0	0	0	23,688,000	
Teachers' & State Employees Retirement Cont	35,705,000	30,237,400	0	30,237,400	65,942,400	
Hospitalization Reserve	122,890,207	(5,000,000)	0	(5,000,000)	117,890,207	
Reserve for Eliminated Positions	(10,038,466)	0	0	0	(10,038,466)	
Grant to Counties for Teachers' Personal Leave Day	0	0	5,000,000	5,000,000	5,000,000	
Contingency and Emergency Fund	5,000,000	0	0	0	5,000,000	
Information Technology Fund	7,840,000	0	0	0	7,840,000	
Job Development Investment Grants Reserve	12,400,000	15,000,000	0	15,000,000	27,400,000	
North Carolina Master Address Dataset	0	0	1,000,000	1,000,000	1,000,000	
Criminal Justice Data Integration	0	0	5,000,000	5,000,000	5,000,000	
Pending Gang Prevention Legislation (HB 274)	0	0	10,000,000	10,000,000	10,000,000	
Task Force on Preventing Pesticide Exposure	0	221,374	135,681	357,055	357,055	
		0	0	0	0	
		0	0	0	0	
Subtotal Statewide Reserves	698,292,362	400,651,450	29,787,593	430,439,043	1,128,731,405	
Total Reserves and Debt Service	1,358,925,649	400,651,450	12,287,593	412,939,043	1,771,864,692	
Total General Fund for Operations	20,694,246,538	272,495,217	260,143,617	532,638,834	21,226,885,372	

General Fund Appropriations						
Fiscal Year 2008-09						
2008 Session						
	Certified Appropriation 2008-09	Recurring Adjustments	Legislative Adjustments Nonrecurring Adjustments	Legislative Adjustments Net Changes	Position Changes	Revised Appropriation 2008-09
Other General Fund Expenditures:						
Capital Improvements	0	0	129,082,062	129,082,062		129,082,062
Repairs and Renovations	0			0		0
Total Other General Fund Expenditures	0	0	129,082,062	129,082,062	0.00	129,082,062
Total General Fund Budget	20,694,246,538	272,495,217	389,225,679	661,720,896	399.72	21,355,967,434

EDUCATION
Section F

Public Education

GENERAL FUND

FY 08-09

Total Budget Approved 2007 Session

\$7,708,315,285

Budget Changes

A. Technical Adjustments

- 1 Average Daily Membership (ADM)** (\$1,463,191) R

Revises projected increase in ADM for 2008-09 to reflect 2,382 fewer students than originally projected. Dollar amount of adjustment includes adjustments in all position, dollar, and categorical allotments.

Total funded ADM for FY 2008-09 is 1,476,566, an increase of 14,826 over FY 2007-08.

Due to a projected increase in ninth grade ADM, receipts from the Highway Fund budgeted for Driver's Education will increase by \$616,491.
- 2 Budgeted Average Salary** (\$43,615,839) R

Revises budgeted funding for certified personnel salaries based on actual salary data from December 2007. Adjustment does not reduce any salary paid to certified personnel.
- 3 Transportation Adjustment for ADM** (\$4,000,000) R

Adjusts this allotment formula to align it with allotted ADM.
- 4 Transportation Fuel** \$35,000,000 NR

Diesel fuel was funded at \$1.83 per gallon in the 2008-09 certified budget. This additional funding will defray the increasing cost of diesel fuel. The Department of Public Instruction shall use funds available from the State Public School Fund to cover fuel costs above the budgeted amount, if any.
- 5 Class-Size Reduction**

The General Assembly directs the Director of the Budget to transfer sufficient funding from the Education Lottery Reserve Fund to maintain K-3 student/teacher ratios at 18:1. The amount of this transfer is estimated to be \$19,750,000.
- 6 Over-realized Civil Penalties** (\$36,538,000) R

This item adjusts for the continued over-collection of civil penalty receipts. Collected civil penalty revenues are required to be deposited in the State Public School Fund (SPSF) for allotment to local education agencies on a per ADM basis. Civil penalties receipts are budgeted in the amount of \$77,500,000 in the SPSF for 2008-09. These receipts were over-realized by \$36.5 million in 2007-08.
- B. State Public School Fund**

- 7 Average Daily Membership (ADM) Reserve** (\$3,000,000) R

Reduces reserve to reflect actual 2007-08 use. \$2 million would remain available to deal with unforeseen ADM growth.

8 Replacement School Buses	Reduces the number of buses replaced in 2008-09 by approximately 160, continuing the 2007-08 nonrecurring reduction. The remaining \$67.2 million budgeted in 2008-09 for this purpose will support the replacement of approximately 665 school buses.	(\$4,500,000)	NR
9 Children With Disabilities Head-Count Adjustment	This is a technical adjustment to the Children With Disabilities allotment. The continuation budget includes anticipated growth based on the projected head-count of children with disabilities. This adjustment revises budgeted funding for both preschool and school-age children with special needs to reflect actual April 1, 2008 headcount. Adjustment does not reduce funding per student.	(\$7,135,129)	R
10 Children With Disabilities	Increases funds allotted to LEAs to support special education and related services for students with identified disabilities. Increases funding factor by \$36.03 per student in funded headcount (172,079), bringing the factor to \$3,386.84 per student.	\$6,200,000	R
11 State-Funded Tests	Eliminates funds to support writing tests for grades 4,7, and 10, as recommended by the Blue Ribbon Commission on Testing. DPI shall provide rubrics to LEAs for local writing assessments.	(\$3,343,412)	R
12 Group Homes and Community Residential Centers	Decreases the unexpended balance for these two expenditure categories. The 2007-08 unexpended balance for these activities was approximately \$3 million.	(\$2,000,000)	R
13 Learn and Earn Online	Reduces 2008-09 recurring funding from \$10.1 million to \$6.5 million and eliminates the \$5 million non-recurring reserve. Projected program expenditures in 2007-08 were approximately \$3 million, less than half of the amount provided for 2008-09.	(\$3,600,000) (\$5,000,000)	R NR
14 At-Risk Funding	Eliminates the FY 2007-08 allocation of \$500,000 from this allotment to the State Board of Education for discretionary projects. The State Board may not spend any funds from this allotment on discretionary projects.	(\$500,000)	R
15 Inflationary Increases for Instructional Supplies	This adjustment reduces the inflationary increases for instructional supplies in FY 2008-09.	(\$396,052)	R
16 Inflationary Increases for Textbooks	This adjustment removes the inflationary increases for textbooks for FY 2008-09 and adjusts the budgeted amount to the FY 2007-08 per ADM rate.	(\$1,039,128)	R
17 ABC Bonuses	Funds ABC bonuses for schools that met or exceeded expected growth in the 2007-08 school year.	\$90,000,000	NR

<p>18 Learn and Earn High Schools Provides funding for 14 additional Learn and Earn high schools that will be operational in 2008-09, bringing the total number of Learn and Earn "traditional" high schools to 56. Nonrecurring appropriation provides \$10,000 per site to support start-up costs associated with the first year of implementation.</p>	<p>\$3,459,461 R \$110,000 NR</p>
<p>19 North Carolina 1:1 Learning Project Provides additional funds to the North Carolina 1:1 Learning Project, a pilot program in 8 high schools that provides laptop computers for all teachers and students in the pilot schools. State funds are used to support program evaluation, improve network connectivity at each of the pilot sites, assist with professional development for teachers and principals, provide technical support staff, and purchase additional software, hardware, or other equipment necessary to support the program. The North Carolina 1:1 Learning Project received a nonrecurring appropriation of \$3 million in 2007-08.</p>	<p>\$1,500,000 NR</p>
<p>20 School Connectivity Provides additional funding to support the implementation of a plan for State-funded and supported IT infrastructure in the LEAs. The School Connectivity initiative is part of the effort to increase schools' abilities to use up-to-date instructional technology. These funds are in addition to the \$12,000,000 in the base budget.</p>	<p>\$10,000,000 R</p>
<p>21 Mentoring Provides additional funds to establish a flexible mentoring program to serve all first and second-year teachers as well as first-year instructional support personnel. LEAs will have the flexibility to use mentoring funds, under a plan approved by the State Board of Education, to implement those strategies it believes will best serve the target population. This change to the mentoring program was recommended by the Joint Legislative Study Committee on Public School Funding Formulas.</p>	<p>\$3,000,000 R</p>
<p>22 Disadvantaged Student Supplemental Funding Expands DSSF allotment for all LEAs to increase each LEA's capacity to meet the needs of all of its students. These funds are in addition to the \$70,172,729 in the base budget.</p>	<p>\$6,000,000 R</p>
<p>23 Academically or Intellectually Gifted Increases funds allotted to LEAs to support programming for students identified as academically or intellectually gifted. Increases funding factor by \$54.18 per ADM (for 4% of ADM), bringing factor to \$1,137.19 per student.</p>	<p>\$3,200,000 R</p>
<p>24 Dropout Prevention Grants Provides a second year of funding for a grant program that distributes funding on a competitive basis to support innovative LEA programs that address dropout prevention. The FY 2007-08 budget provided a nonrecurring appropriation of \$7 million for this purpose. Of these funds, the Department of Public Instruction shall use up to \$90,000 to provide Positive Behavior Support training.</p>	<p>\$15,000,000 NR</p>

<p>25 Low Wealth Counties Supplemental Funding Provides a second year of "one-time" funding to LEAs that experienced decreases in Low Wealth Counties Supplemental Funding in FY 2007-08. This money will restore 40% of each LEA's decrease in Low Wealth Counties Supplemental Funding experienced in FY 2007-08.</p>	<p>\$2,904,043</p>	<p>NR</p>
<p>26 More at Four Expands program that provides high-quality pre-K services to eligible four-year olds.</p>	<p>\$30,000,000</p>	<p>R</p>
<p>27 Child Obesity Pilot Programs Provides funds to implement pilot programs to address child obesity. The State Board of Education shall establish guidelines for designing and implementing the programs.</p>	<p>\$500,000</p>	<p>NR</p>
<p>28 Learn and Earn Virtual Schools Provides funding for the four Learn & Earn Virtual high schools ready for operation in Currituck, Hyde, Jackson and Tyrrell Counties.</p>	<p>\$1,000,000</p>	<p>R</p>
<p>C. Department of Public Instruction</p>		
<p>29 Teacher Working Conditions Survey Reduces the appropriation for the Teacher Working Conditions Survey for one year.</p>	<p>(\$90,000)</p>	<p>NR</p>
<p>30 Teacher Academy Eliminates \$500,000 in funding to the North Carolina Teacher Academy for the training of literacy coaches. The North Carolina Teacher Academy will retain \$1,500,000 in previously appropriated funds in order to train the 200 existing literacy coaches.</p>	<p>(\$500,000)</p>	<p>R</p>
<p>D. Pass-Through Funds</p>		
<p>31 Teacher Cadet Program The General Assembly appropriated \$278,500 in nonrecurring funds for the Teacher Cadet Program in 2007-08. This appropriation for 2008-09 provides recurring support for the program. Teacher Cadet Program is part of the North Carolina Foundation for Public School Children, a private non-profit organization that encourages high achieving students to consider teaching as a career.</p>	<p>\$278,500</p>	<p>R</p>
<p>32 Teach for America Provides funds to this private non-profit organization in addition to the \$200,000 in recurring funds already in the FY 2008-09 budget. Funds will offset the costs of recruiting, selecting, training, and supporting teachers in North Carolina. The General Assembly appropriated \$200,000 in nonrecurring funds for the Teach for America program in 2007-08.</p>	<p>\$750,000</p>	<p>R</p>
<p>33 Communities in Schools Communities in Schools is a private non-profit organization that connects at-risk youth and their families with resources to assist in school success and dropout prevention. This appropriation expands the current Communities in Schools budget of \$1,107,500. Expansion amount may support the creation of Performance Learning Centers and will be matched, in part, by a grant from the Bill & Melinda Gates Foundation.</p>	<p>\$500,000</p>	<p>R</p>

<p>34 PTA Parental Involvement Initiative Provides funds to the North Carolina Congress of Parents and Teachers, Incorporated, a non-profit organization, to implement the PTA Parental Involvement Initiative. The PTA Parental Involvement Initiative received a nonrecurring appropriation of \$262,500 in 2007-08.</p>	<p>\$300,000 NR</p>
<p>35 Literacy Connection Program Provides funding to Project Enlightenment, an early childhood education and intervention program of the Wake County Public School System, to operate the Literacy Connection Program. The program will develop a statewide network of preschool early literacy leaders and provide them with training and support for coaching preschool teachers on literacy instruction strategies. In addition, the program will provide training and technical support to the More at Four program. The Literacy Connection received a nonrecurring appropriation of \$200,000 in FY 2007-08.</p>	<p>\$200,000 R</p>
<p>36 ExplorNet Provides additional funds to the Centers for Quality Teaching and Learning, a program that or the purpose of developing, piloting, and implementing a program for new and lateral entry teachers designed to prepare them to be successful and to remain in the classroom. The FY 2008-09 budget includes \$300,000 recurring for ExplorNet.</p>	<p>\$100,000 NR</p>
<p>37 Kids Voting Provides funding to support continued operation of the Kids Voting program, which received a non-recurring appropriation of the same amount in FY 2007-08. \$50,000 will be used to implement new Kids Voting programs in nonparticipating counties across the State. \$200,000 will be divided on the basis of the North Carolina Department of Public Instruction's Average Daily Membership with a minimum of \$2,500 for the following counties: Alleghany, Beaufort, Buncombe, Burke, Cabarrus, Catawba, Chowan, Clay, Cumberland, Davie, Durham, Forsyth, Greene, Guilford, Haywood, Henderson, Iredell, Jackson, Lee, Madison, Mecklenburg, New Hanover, Onslow, Randolph, and Wake to assist those counties with their Kids Voting programs.</p>	<p>\$250,000 NR</p>
<p>38 North Carolina Science, Mathematics and Technology Education Center Provides \$100,000 to the North Carolina Science, Mathematics and Technology Education Center, Inc. (NCSMTEC) to support the establishment of new interscholastic science competitions. The FY 2008-09 budget includes \$100,000 recurring for NCSMTEC.</p>	<p>\$100,000 NR</p>
<p>39 NC Humanities Council Teacher Institute Program Provides additional funds to non-profit program focused on promoting teaching and learning that develops teachers' capacities to understand, empathize with, and relate to various cultures. This organization received a non-recurring appropriation of \$100,000 in FY 2007-08.</p>	<p>\$100,000 NR</p>

Budget Changes	(\$42,542,790)	R
	\$136,274,043	NR
Total Position Changes		
Revised Total Budget	\$7,802,046,538	

Total Budget Approved 2007 Session **FY 08-09**
\$2,656,447,099

Budget Changes

A. Base Budget Adjustments

40 Enrollment Growth	\$34,613,302	R
Increases the enrollment growth funding in the base budget (\$39,830,577) to meet the projected need of \$74,443,879 for an additional 8,082 FTE students in FY 2008-09.		
41 Management Flexibility Reduction	(\$16,000,000)	R
Mandates a management flexibility reduction for the UNC budget. The UNC President and the UNC Board of Governors will determine the allocation of budget cuts.		
42 Building Reserve Adjustments	(\$3,673,321)	R
Adjusts the building reserves for new and renovated buildings due to changes in completion dates and recalculation of reserve costs.		
43 Legislative Tuition Grant Adjustment	\$732,470	NR
Adjusts the appropriation for the Legislative Tuition Grant due to lower than expected enrollment in FY 2007-08. The remaining appropriation allows for 3% growth in on-campus students and 1% growth in off-campus students in FY 2008-09.		
44 State Contractual Scholarship Fund Adjustment	(\$1,700,000)	R
Adjusts the appropriation for the State Contractual Scholarship Fund due to lower than expected enrollment in FY 2007-08. The remaining appropriation allows for 1.5% growth in FTE for the campuses in FY 2008-09.		
45 SREB Contract Programs Phase-Out	(\$1,100,000)	R
Begins phase-out of the Southern Regional Education Board (SREB) contract programs in Optometry, Dentistry, and Medicine with universities in other states. Students now enrolled through this program will be allowed to graduate, but future students will be directed to apply for financial assistance through the North Carolina Student Loan Program for Health, Science and Math that requires a commitment to work in North Carolina to repay the scholarship loan. This is the first year savings from the phase-out.		
46 EARN Scholars Revision	(\$93,000)	R
Revises the Education Access Rewards North Carolina Scholars Fund (EARN) to allow private college students to participate. This change will cost \$6,225,000 in FY 2008-09. With this change, the total cost of EARN in FY 2008-09 is estimated to be \$66.2 million. The current program is funded in FY 2008-09 with \$60 million General Fund and \$40 million Escheat Fund. The proposed change is to fund \$16.2 million from the General Fund and up to \$50 million from the Escheat Fund.		
46 EARN Scholars Revision	(\$43,775,000)	NR

47 Coaching Scholarships Elimination	Begins phase-out of the Physical Education / Coaching Scholarship Loan program. The students currently receiving the scholarship loan will continue to receive this two year award, but no new aid will be offered in FY 2009-10. In addition, a trust fund containing \$267,000 in unspent appropriations from prior years is reverted to the General Fund. The increased General Fund availability resulting from this reversion will be used to fund expansion budget items.	(\$72,000)	R
48 Principal Fellows Program Trust Fund Reversion	Reverts \$1.0 million from the \$3.1 million Principal Fellows Program Trust Fund to the General Fund. This increase in General Fund availability will be used for expansion budget items.		
49 Tuition Surcharge Over-realized Receipts	Adjusts the budgeted amount for tuition surcharge receipts. A 25% tuition surcharge is levied on students who exceed 140 degree credit hours for a baccalaureate degree in a four-year program or who exceed 110% of the credit hours needed in a five-year program. Receipts have averaged \$1.47 million the past three fiscal years, but the authorized receipts are \$850,000.	(\$400,000)	R
B. Expansion			
50 Campus Safety	Provides funding to the UNC Board of Governors to implement recommendations of the UNC Campus Safety Task Force.	\$6,000,000	R
		\$9,000,000	NR
51 Principal Fellows Program - Class 10 Payments	Reserves \$1.74 million of the balance in the Principal Fellows Program Trust Fund Funds for \$20,000 payments to the 87 participants of Class 10 of the Principal Fellows Program (PFP). Two months after accepting the PFP scholarship loan, the 2003 General Assembly reduced the second year stipend by \$20,000. To receive this payment, Class 10 members will be required to extend their service to the state as a public school principal or assistant principal for six months beyond the current four year commitment.		
52 Perinatal Mortality and Disease	Appropriates funds to the UNC Chapel Hill School of Medicine to support the Perinatal Quality Collaborative of North Carolina. This group is committed to improving clinical and health system issues in perinatal care.	\$250,000	NR
53 AHEC	Provides funds to Area Health Education Centers (AHEC) to address health workforce shortages, primary care residency training, and quality of patient care and patient safety in local health facilities.	\$1,750,000	R
54 Cochlear Implant Programs	Appropriates \$575,000 to the Center for the Acquisition of Spoken Language through Listening Enrichment (CASTLE) and \$100,000 to East Carolina University Health Sciences Division and Project EAR (Enrichment & Auditory-Oral Resources) to 1) train teachers and therapists to work with deaf preschool-age children with cochlear implants and 2) provide oral classes to children with cochlear implants.	\$675,000	NR

55 Medical School Expansion	Provides funding to plan the programmatic elements of the expansion of the medical schools at the University of North Carolina at Chapel Hill and East Carolina University. The proposed additional medical students will spend their third and fourth years in clinical rotations in Charlotte, Asheville, and selected cities in Eastern North Carolina.	\$1,500,000	NR
56 ECU Dental School Operations	Funds the additional professional staff needed for planning and operation of the new ECU dental school.	\$1,500,000	R
57 TEACCH	Provides funds to the TEACCH (Treatment and Education of Autistic and Related Communication-Handicapped Children) program to provide early intervention services for 18 month old to three year old autistic children and to provide student training stipends.	\$353,064	R
58 Statewide Program for Infection Control and Epidemiology (SPICE)	Funds the Statewide Program for Infection Control and Epidemiology (Spice) at the UNC-Chapel Hill School of Medicine. SPICE is charged with investigating and controlling healthcare-associated infections in medical and long-term care facilities.	\$250,000	NR
59 Veterinary Medicine Clinical Teaching and Research Fund	Provides continued funding to the NC State University College of Veterinary Medicine for the Veterinary Medicine Clinical Teaching and Research Fund. This fund allows advanced diagnostic and treatment options for animals where a) owner financing of such options are limited, b) significant instructional value exists, or c) the diagnostic and treatment options have the potential of adding significantly to core knowledge in the relevant clinical area.	\$200,000	NR
60 WCU Forensic Science Program	Funds additional faculty and equipment for DNA analysis in the Forensic Science Program at Western Carolina University. The program trains students for careers in forensic science, assists law enforcement agencies with crime scene investigations, and provides training for law enforcement professionals.	\$500,000	R
61 FSU Fire Training Tower	Provides funding to Fayetteville State University to help fund a fire training tower for its BS in Fire Science program.	\$400,000	NR
62 Dairy Agriculture Extension Agents	Funds two Area Specialized Dairy Agents in the NC Cooperative Extension Service.	\$200,000	R
63 NCSU College of Engineering	Provides additional operating funds for the bioengineering program in the NCSU College of Engineering.	\$2,000,000	R
64 NC A&T College of Engineering	Provides funds to North Carolina A&T State University's College of Engineering for additional faculty, equipment replacement and maintenance, and support of academic programs.	\$2,000,000	R

<p>65 Special Focus Institutions Provides funding to the North Carolina School of the Arts (\$750,000), to UNC-Asheville (\$750,000), and to the North Carolina School of Science and Math (\$250,000). The missions and limited sizes of these institutions make it difficult for them to generate sufficient funds from the student credit hour enrollment funding model and other sources to provide the services students need.</p>	<p>\$1,750,000</p>	<p>R</p>
<p>66 Distinguished Professors Endowment Fund Provides state matching funds for Spangler Foundation grants to establish distinguished professorships on each of the 16 constituent university campuses.</p>	<p>\$4,600,000</p>	<p>NR</p>
<p>67 ECSU Aviation Program Funds a flight school in the Aviation program at Elizabeth City State University.</p>	<p>\$300,000 \$300,000</p>	<p>R NR</p>
<p>68 NCCU Law School Provides funds to the North Carolina Central University Law School to address ABA recommendations to enhance academic and student services infrastructure and to continue the transition of core functions away from federal Title III funding. This funding is in addition to the \$2.5 million granted the NCCU law school in FY 2007-08.</p>	<p>\$2,000,000</p>	<p>R</p>
<p>69 NC Research Campus at Kannapolis Provides funds to pay lease costs, hire faculty and staff, and purchase equipment and supplies for UNC programs located at the North Carolina Research Campus at Kannapolis.</p>	<p>\$6,000,000</p>	<p>R</p>
<p>70 UNC-TV Public Affairs Programs Provides funds to produce North Carolina Now and related statewide public affairs programs.</p>	<p>\$200,000</p>	<p>R</p>
<p>71 NC Arboretum International Institute for Natural Biotechnology Provides funds to the North Carolina Arboretum's International Institute for Natural Biotechnology and Integrative Medicine (Bent Creek Institute). The Institute studies the chemical makeup of traditional plant remedies in search of new medicines. The Institute houses the nation's first seed collection for medicinal plants.</p>	<p>\$200,000</p>	<p>NR</p>
<p>72 A+ Schools Provides funds to expand the number of public schools participating in the A+ Schools program affiliated with UNC-Greensboro. The program assists schools in implementing school reform by integrating arts into the curriculum.</p>	<p>\$100,000</p>	<p>NR</p>
<p>73 UNC Pembroke Fire Protection Funds Provides grant to the Pembroke Rural Fire Department to 1)reimburse the Department for the extra costs incurred when it purchased a 100-foot aerial fire truck to ensure adequate fire protection services to UNC Pembroke and 2)purchase additional equipment for the fire truck that is needed to make the fire truck operational.</p>	<p>\$200,000</p>	<p>NR</p>

74 North Carolina in the World Project		
Provides funds to continue the NC in the World Project that began in FY 2005-06. This project is an initiative of the NC Center for International Understanding and is focused on improving students' knowledge about the world.	\$200,000	NR
75 Legislative Tuition Grant for Half-time Students		
Provides the Legislative Tuition Grant to NC residents enrolled in a minimum of six credit hours per semester in NC Independent Colleges and Universities.	\$1,750,000	NR
76 BRITE Operating Funds		
Completes funding the operations of the newly constructed Biomanufacturing Research Institute & Technology Enterprise (BRITE) program at North Carolina Central University.	\$1,000,000	R
77 Joint Graduate School of Nanoscience and Nanoengineering		
Provides additional operating funds for the new joint Graduate School of Nanoscience and Nanoengineering at NC A&T and UNC-G's Millennium Campus.	\$1,500,000	R
	\$1,500,000	NR
78 Faculty Recruiting and Retention Fund		
Continues the Faculty Recruiting and Retention Fund that was initiated in FY 2006-07. The UNC President may use the Fund to offer salary increases to recruit and retain faculty members in the 16 constituent universities.	\$3,000,000	R
79 Research Competitiveness Fund		
Continues funding a Research Competitiveness Fund that began in FY 2007-08. The Fund is used to invest in those research topics important to the economic competitiveness of the state as identified by the UNC Tomorrow Commission. Previous funding was spent on research in biofuels, nanotechnology, natural products, and improved weather forecasting.	\$1,000,000	NR
80 Graduate Student Recruitment and Retention		
Funds new tuition waivers aimed at recruiting and retaining top tier graduate students in math and science.	\$1,500,000	R
81 Math and Science Education Network (MSEN) Pre-College Programs		
Provides additional funds to the NC Math and Science Education Network (MSEN) for pre-college enrichment programs to help prepare under-represented students in grades 6-12 to pursue college studies in science and math. These funds shall be used to continue programs at Western Carolina University and East Carolina University.	\$400,000	NR
82 Systems Support and Data Integration		
Creates a unit within UNC General Administration that is devoted to supporting campuses as they implement integrated computing systems. The first project the unit will undertake is the implementation of a university-based payroll system.	\$1,000,000	R
	\$1,000,000	NR

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83 NCSU Horticultural Program in Eastern NC	Provides funding for graduate students in the horticultural program at the College of Agriculture and Life Sciences at North Carolina State University to have an opportunity to perform fieldwork in the coastal region of the state.	\$200,000	R
84 NCSU Advanced Transportation Energy Center	Funds electric vehicle research underway at the NCSU Advanced Transportation Energy Center. Funding will be matched by grants from Progress Energy and Duke Energy.	\$250,000	NR
85 Support for Regional Partnerships	Provides operating support for the higher education partnerships in Hickory, Rocky Mount, and Onslow County.	\$500,000	R
86 Williamsdale Farm Agricultural Extension and Research Facility	Provides funding for infrastructure improvements and plot development at the Williamsdale Farm Agricultural Extension and Research Facility in Duplin County. This NCSU research farm is developing biofuel crops for processing in the biomass pilot plant at the Lake Wheeler Road Field Lab in Wake County.	\$1,250,000	NR
<hr/>			
Budget Changes		\$44,828,045	R
		(\$18,017,530)	NR
Total Position Changes		2.00	
Revised Total Budget		\$2,683,257,614	
<hr/>			

Community Colleges

GENERAL FUND

Total Budget Approved 2007 Session **FY 08-09**
\$899,643,003

Budget Changes

A. Enrollment

87 Fully Fund Enrollment Growth \$23,779,955 **R**
 Provides funds to fully fund enrollment growth. According to the 2007-08 spring semester census, enrollment has increased by 6,455 full-time equivalent (FTE) students above the 2007-08 budgeted enrollment of 195,375. This increase is a 3.3% increase and brings 2008-09 budgeted enrollment to 201,830. Curriculum enrollment increased by 6,119 FTE (or 4.1%), continuing education enrollment by 288 (or 1.2%), and basic skills enrollment by 48 FTE (or 0.3%).

88 Enrollment Growth Reserve \$2,500,000 **NR**
 Provides funds for an Enrollment Growth Reserve to assist colleges that experience high growth in the fall semester. Funds shall be distributed to colleges that realize an increase greater than 5% over the previous year. Last year \$2 million non-recurring was provided for this purpose.

B. Reductions

89 Minimum Faculty Salary Technical Correction (\$540) **R**
 Eliminates the remaining \$540 in the Minimum Faculty Salary line. This categorical appropriation was eliminated by the General Assembly in 2007. Due to a rounding error, however, the reduction failed to zero out the line.

90 Adjust College Information System (CIS) to Reflect Steady Operational State (\$3,332,426) **R**
 Reduces the overall budget of CIS to \$11.7 million, the amount needed for on-going maintenance and operations, including periodic system upgrades. In 1999 the General Assembly appropriated \$15 million to develop a comprehensive, system-wide management information system. As of February 2008, the College Information System (CIS) has been implemented at all 58 community colleges.

91 Unexpended CIS Fund Balance
 Reverts the anticipated year-end fund balance in budget code 26802 to the General Fund. Due to the full implementation of CIS in February 2008, a portion of the funds appropriated were not expended. Through a special provision, this reversion will increase availability by \$4,500,000 NR, which will be used for expansion budget items.

92 Reduce NCCCS BioNetwork (\$600,000) **R**
 Reduces the \$7.4 million appropriation for BioNetwork. BioNetwork provides specialized training, curricula, and equipment to community colleges statewide to develop the workforce for the biotechnology, pharmaceutical, and life science industries. The reduction will reduce BioNetwork's advertising budget and eliminate unused funds.

<p>93 Adjust for Over-realized Tuition Receipts Increases the budgeted amount of tuition and registration fees to more accurately reflect anticipated receipts. These additional receipts are expected to be available because 2008-09 actual enrollment is expected to exceed budgeted levels.</p>	<p>(\$2,500,000) NR</p>
<p>94 Focused Industrial Training (FIT) Reverts the \$783,246 balance of HB 275 funds that remains unspent for FIT. This balance has remained unchanged since FY 2004-05. By special provision, this reversion will increase availability for expansion budget items. FIT provides customized training for incumbent workers in existing manufacturing industries whose jobs are changing because of technological or process advances. This reduction does not affect FIT's recurring General Fund appropriation of \$3,964,471.</p>	
<p>95 Customized Industry Training (CIT) Reduces the current Customized Industry Training (CIT) budget of \$2.75 million. This program helps existing businesses and industries improve their productivity and profitability by providing incumbent worker training. A project may be funded through CIT when it does not meet the eligibility guidelines for New and Expanding Industry Training (NEIT) or Focused Industrial Training (FIT).</p>	<p>(\$285,891) R</p>
<p>96 Materials Composite Testing Eliminates the appropriation for Materials Composite Testing. Since the original \$100,000 recurring appropriation in FY 2004-05, this program has adjusted its focus to become primarily a metrology training resource.</p>	<p>(\$100,000) R</p>
<p>97 State Board Reserve Reduces the current State Board Reserve budget of \$800,000. Per G.S. 1150-5(j), these reserve funds must be used on feasibility studies, pilot projects, start up of new programs, and innovative ideas.</p>	<p>(\$100,000) R</p>
<p>98 NC Military Business Center Eliminates recurring funding for the NC Military Business Center (NCMBC) and provides non-recurring funds for FY 2008-09. Restoration of recurring funding in FY 2009-10 is subject to the findings of a legislative continuation review. The NCMBC operates under the supervision of Fayetteville Technical Community College and has offices at ten Community Colleges across the state. The mission of the Military Business Center is to leverage military and other federal business opportunities for economic development and quality of life in North Carolina.</p>	<p>(\$1,250,000) R \$1,250,000 NR</p>
<p>C. Categorical Programs</p>	
<p>99 Allied Health Provides funds to support high-cost allied health programs. Funds may be used for allied health faculty, equipment, or supplies. Funds may also be used for National League of Nursing Accreditation fees. These funds are in addition to the \$5.6 million included in the base budget for this purpose. Funds shall be distributed on the basis of Allied Health FTE.</p>	<p>\$4,000,000 R</p>

<p>100 Technical Education Provides funds to re-establish and place renewed emphasis on technical education programs. Funds may be used for faculty, equipment, or supplies in the following curriculum areas: Construction, Engineering, Industrial, and Transport Systems Technologies. Funds shall be distributed among colleges based on the number of FTE students enrolled in these areas.</p>	<p>\$1,000,000</p>	<p>R</p>
<p>101 Equipment Provides funds for the purchase of instructional equipment at all 58 colleges. These funds are in addition to the \$31.3 million included in the base budget for this purpose. Funds shall be distributed in accordance with the existing equipment formula. Last year the General Assembly appropriated \$10 million non-recurring in addition to the base budget.</p>	<p>\$5,000,000</p>	<p>NR</p>
<p>102 NC Research Campus Provides funds to Rowan-Cabarrus Community College for operating expenses related to community college programs at the NC Research Campus in Kannapolis. These programs will focus on biotechnology. Two programs will be provided collaboratively with Forsyth Tech and Gaston College. These funds are in addition to the \$2.3 million in the base budget for this program.</p>	<p>\$1,000,000</p>	<p>R</p>
<p>103 Minority Male Mentoring Provides funds to continue the 15 Minority Male Mentoring programs established in FY 2007-08 and establish 17 new programs, thus supporting a total of 32 State-funded programs. These programs provide such activities as academic and personal counseling, drug intervention, and personal growth and development. The location of the new programs will be determined through a competitive application process. In addition, \$25,000 may be used to support the program's statewide conference, where colleges share experiences and best practices. Last year, the General Assembly provided \$475,000 non-recurring for this purpose.</p>	<p>\$985,000</p>	<p>NR</p>
<p>104 Multi-Campus Center Funds Provides additional funds to support multi-campus centers (MCCs), satellite campuses that provide student services and at least one degree program onsite. These funds will support two additional MCCs - the North and West Campuses of Wake Tech - bringing the total number of MCCs to 26. These funds are in addition to the \$13,455,197 currently in the base budget.</p>	<p>\$562,607</p>	<p>R</p>
<p>105 NC REAL Provides funds for NC REAL (NC Rural Entrepreneurship through Active Learning). Funds shall be used for a training program in entrepreneurial skills. This program was formerly supported by the Worker Training Trust Fund (WTF). Since 2005 funds have not been available from the WTF; therefore, the General Assembly has provided \$250,000 non-recurring each year from the General Fund for this purpose.</p>	<p>\$250,000</p>	<p>NR</p>
<p>106 Fayetteville Tech 3-D Technology Project Provides funds to establish the nation's first interactive 3-D center. The project will offer modeling and simulation training and development for military and civilian applications.</p>	<p>\$400,000</p>	<p>NR</p>

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107 NC Center for Applied Textile Technology		
Provides funds for operations and equipment at the North Carolina Center for Applied Textile Technology at Gaston College. These funds are in addition to the \$994,142 in the base budget for this program.	\$400,000	NR
108 Motorsports Consortium		
Provides funds to support the Motorsports Consortium, which is established to help create a highly trained workforce for the State's motorsports industry. The consortium includes community colleges across the State. In FY 2007-08, the General Assembly provided \$500,000 NR for this purpose.	\$500,000	NR
109 Tuition Waiver for Non-Certified School Employees		
Provides funds to support a tuition waiver for non-certified elementary and secondary school employees taking CPR and First Aid courses at community colleges. Currently only teachers may receive the waiver under Administrative Rule 23 NCAC 02D.0203.	\$80,000	R
D. Community College System Office		
110 Facility Engineer		
Provides funds for a facility engineer position at the Community College System Office to help colleges with their advanced planning and capital construction projects. Nonrecurring funds are appropriated for equipment specific to the position.	\$91,993 \$9,000 1.00	R NR
Budget Changes	\$24,845,698	R
	\$8,794,000	NR
Total Position Changes		1.00
Revised Total Budget	\$933,282,701	

**HEALTH
&
HUMAN SERVICES
Section G**

Health and Human Services

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09
	\$5,100,200,353

Budget Changes

(1.0) Division of Central Management and Support

1 Budget Department-wide Prior-Year Earned Revenues	Requires prior-year earned revenue to be budgeted throughout the department and reduces State appropriations.	(\$7,550,000)	NR
2 Reduce Automation Reserve	Reduces funding for the Automation Reserve Fund.	(\$3,634,966)	R
3 Eliminate Funding for Strategic LME Teams	Eliminates funding in the Office of the Secretary for the strategic mental health Local Management Entity (LME) teams. These funds have been under-utilized since appropriated in 2006.	(\$300,000)	R
4 Budget Over-realized Unbudgeted Receipts	Requires over-realized receipts throughout the department to be budgeted and reduces State appropriations.	(\$4,000,000)	R
5 Realign Funding from NC FAST	Realigns part of the balance of funds in NC FAST, of which \$645,618 is to be used for the transition in claims processing for NC Health Choice.	(\$5,000,000)	NR
6 MMIS Replacement Project	Provides a total of \$6,500,000 in receipts to be used for MMIS Replacement - \$1,300,000 in Prior Year Earned Revenue and \$5,200,000 in Federal matching funds.		
7 MMIS Oversight and Integration of Health Choice	Provides up to \$300,000 to obtain the services of an outside consultant that possesses the background, experience, and capability to oversee the MMIS project, including the cost of integrating Health Choice into MMIS.	\$300,000	NR
8 NC NOVA	Provides funding for the NC New Order Vision Award that is part of the star-rating certification of Adult Care Homes.	\$75,000	NR
9 Health Net Grants	Provides funding to sustain provider networks that coordinate free health care for low-income and uninsured patients, including the collaboration and support between Health Net and NC AHA.	\$2,800,000 \$950,000	R NR
10 Aid to Safety Net Community Health Centers	Provides funding on a competitive grant basis to rural health centers, local health departments, qualified health centers, free clinics, school-based health centers, and entities providing preventive care.	\$4,000,000	NR

<p>11 Rural Hospitals Operations and Maintenance Provides funding for small rural hospitals for assistance with operations and infrastructure maintenance.</p>	<p>\$2,000,000 NR</p>
<p>12 Institute of Medicine Provides funding for the Institute of Medicine to hire staff to undertake additional studies at the request of the General Assembly.</p>	<p>\$300,000 NR</p>
<p>13 Expand Adolescent School Health Centers Provides funding on a competitive grant basis to School-based Health Centers providing preventive health care to children and adolescents.</p>	<p>\$250,000 NR</p>
<p>(2.0) Division of Aging and Adult Services</p>	
<p>14 Project CARE Provides funding to replace expiring Federal funding for Project CARE (Caregiver Alternatives to Running on Empty), a respite-care program for caregivers of persons with Alzheimer's disease and dementia.</p>	<p>\$500,000 NR</p>
<p>15 Home and Community Care Block Grant Provides funding for the Home and Community Care Block Grant, the main source of in-home and community-based services for seniors in local communities.</p>	<p>\$2,000,000 R</p>
<p>(3.0) Division of Child Development</p>	
<p>16 Child Care Subsidies Replaces General Fund appropriations for child care subsidies with \$6,836,921 in federal TANF block grant funds.</p>	<p>(\$6,836,921) R</p>
<p>17 TANF Funds for Child Care Subsidy Services Provides \$9 million in funding from the federal TANF block grant for child care subsidy services -- includes \$4.9 million to remove 1,110 children from the child care subsidy waiting list and \$4.1 million to replace nonrecurring funds to maintain services for 931 children.</p>	<p></p>
<p>18 Three Criminal Records Check Positions Provides funding for three positions in the Criminal Records Check Unit to help implement new types of record checks and ensure processing times do not increase for existing checks. Processing Assistant IV (2) - \$31,132 each; or \$62,264 in total. Processing Assistant V (1) - \$33,621</p>	<p>\$126,499 R \$8,000 NR 3.00</p>
<p>19 T.E.A.C.H Early Childhood Education Provides funding for the North Carolina T.E.A.C.H Early Childhood Project.</p>	<p>\$100,000 R</p>
<p>20 Regulatory Services Position Provides funding for a position in Regulatory Services to schedule and prepare pre-licensing workshops for child care providers. Funded by \$35,337 from the federal Child Care Development Fund Block Grant. Processing Assistant V (1) - \$35,337.</p>	<p></p>

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<p>21 Smart Start Provides funding for local Smart Start initiatives.</p>	<p>\$500,000</p>	<p>R</p>
<p>(4.0) Office of Education Services</p>		
<p>22 Replace Telephone System for Governor Morehead School for the Blind Provides funding to purchase a new telephone/campus-wide emergency system for the Governor Morehead School for the Blind.</p>	<p>\$698,940</p>	<p>NR</p>
<p>23 Textbooks for Deaf and Blind Schools Provides \$77,466 in nonrecurring receipts for textbooks.</p>		
<p>(5.0) Division of Public Health</p>		
<p>24 Budget State Public Health Laboratory Receipts Increases budgeted receipts for the State Public Health Laboratory to reflect actual collections and reduce State appropriations.</p>	<p>(\$401,379)</p>	<p>R</p>
<p>25 Reduce WIC by Prior Year Reversions Reduces State appropriations to the Women, Infant, and Children program to historic level of spending.</p>	<p>(\$305,095)</p>	<p>R</p>
<p>26 Reduce Operating Funds (Accounts 2XXX Through 5XXX) Reduces State appropriations for operating funds in the Division of Public Health to the historic level of spending.</p>	<p>(\$1,900,000)</p>	<p>R</p>
<p>27 Eliminate Vision Care Program Eliminates funding for the Vision Care Program.</p>	<p>(\$500,000)</p>	<p>R</p>
<p>28 Realign Funding from BCCCP Program Reduces State appropriations to the Breast and Cervical Cancer Control Program to the level of current utilization.</p>	<p>(\$500,000)</p>	<p>R</p>
<p>29 Reduce Funds For Contracts (Account 6XXX) Reduces State appropriations for operating funds in the Division of Public Health to the historic level of funding.</p>	<p>(\$2,000,000)</p>	<p>R</p>
<p>30 Funds to Support State Facility Death Reporting Requirements Provides funding to the Office of the Chief Medical Examiner for one position and increased operating costs due to additional reporting requirements of deaths at State institutions.</p>	<p>\$155,226 \$3,100 1.00</p>	<p>R NR</p>
<p>Public Health Nursing Consultant II (1) - \$66,001.</p>		

31 Cystic Fibrosis Screening and Outreach

Provides funding from fee receipts to add screening for Cystic Fibrosis to the panel of tests administered to newborns. The salaries of five positions associated with test and follow up are supported by fee receipts of \$989,320.

Public Health Genetic Counselor (1) - \$50,628
 Public Health Educator III (1) - \$50,628
 Medical Laboratory Technologist II (1) - \$48,528
 Laboratory Improvement Consultant (1) - \$55,150
 Medical Laboratory Specialist (1) - \$55,150.

32 Obesity Prevention

Provides funding for comprehensive demonstration projects to reduce obesity and the chronic diseases caused by obesity.

\$2,000,000 NR

33 Raise Monetary Ceiling on Asbestos Material Removal

Provides funding from fee receipts for the Asbestos Hazard Management Program, by raising the cap on the fee for removal of asbestos in demolition to \$1,500. The increase will result in an additional \$71,615 in receipts.

34 OCME Toxicology Laboratory Improvements

Provides funding for an additional position to alleviate a backlog in toxicology tests and to purchase new equipment.

\$151,379 R
 \$350,000 NR
 1.00

Chemist II (1) - \$61,044.

35 Improve Birth Outcomes and Reduce Infant Mortality

Provides funding to educate women on the benefits of progesterone, to purchase medication for eligible women at risk for pre-term births, and for the development and implementation of a safe sleep public awareness campaign.

\$247,000 NR

36 Funds for Dental Supplies

Provides funding to restore and expand the Fluoride Mouth Rinse Program to low-income children at risk of tooth decay. Up to 5% of these funds may be used to administer the expansion of the program.

\$250,000 R

37 Vital Records

Provides funding for Vital Records Section to relocate to more efficient space and for two new positions associated with the move. Funded by \$800,000 in receipts.

Office Assistant IV (1) - \$32,132
 Public Safety Officer (1) - \$39,247.

38 State Public Health Laboratory Position Conversions

Provides funding to reallocate 4 positions to reestablish an Assistant Director and 3 scientifically-oriented positions. Funded by \$164,302 in receipts.

Assistant Laboratory Director (1)
 Laboratory Safety Officer (1)
 Medical Laboratory Technologists (2).

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<p>39 Tobacco Quitline Provides funding for medical and counseling services to persons using tobacco.</p>	<p>\$500,000</p>	<p>R</p>
<p>40 Communities for Eliminating Health Disparities Initiative Provides funding for grants-in-aid to community programs seeking to prevent chronic illness among minority populations.</p>	<p>\$1,000,000</p>	<p>R</p>
<p>41 Healthy Carolinians Provides funding for local health departments to establish and maintain infrastructure to reduce rates of diabetes, cancer, heart disease, obesity, injury, and infant mortality.</p>	<p>\$435,306</p>	<p>NR</p>
<p>42 Aid to Local Health Departments Provides funding to Local Health Departments based on need and current health status data, for the ten essential services of public health.</p>	<p>\$4,800,000</p>	<p>R</p>
<p>43 Women's Health Services Provides funding for family planning to uninsured women who are not eligible for Medicaid.</p>	<p>\$100,000</p>	<p>R</p>
<p>44 Healthy Start Provides funding for a grant-in-aid to the Healthy Start Foundation.</p>	<p>\$500,000</p>	<p>R</p>
<p>45 Recruitment of Minorities into Pharmacy Schools Provides funding to continue a program to enhance recruitment of minority students for Schools of Pharmacy.</p>	<p>\$275,000</p>	<p>NR</p>
<p>46 Prevent Blindness Provides funding for a grant-in-aid to Prevent Blindness North Carolina to expand the pre-kindergarten screening program.</p>	<p>\$150,000</p>	<p>NR</p>
<p>47 Adolescent Pregnancy Prevention Program Provides funding for a grant-in-aid to the Adolescent Pregnancy Prevention Coalition of North Carolina.</p>	<p>\$250,000</p>	<p>NR</p>
<p>48 Teen Pregnancy Prevention Initiative Provides funding for the adolescent pregnancy prevention, teen parenting, and school dropout prevention program.</p>	<p>\$400,000</p>	<p>NR</p>
<p>49 Osteoporosis Education Provides funding for a grant-in-aid to North Carolina Osteoporosis Foundation for public education and awareness activities.</p>	<p>\$75,000</p>	<p>NR</p>
<p>50 Poison Control Center Provides funding to increase the State contract with the Poison Control Center operated by the Carolinas Medical System.</p>	<p>\$200,000</p>	<p>R</p>
<p>51 Medically-Fragile Children's Program Provides funding for services for the child care component of pediatric day treatment centers for medically-fragile children. Additionally, \$290,000 is also allocated from Social Services Block Grant.</p>	<p>\$70,000</p>	<p>NR</p>

Health and Human Services

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52 Stroke Prevention	Provides funding for operation of Stroke Advisory Council, the continued implementation of public awareness campaign, and identification of stroke rehabilitation services throughout the state to establish a partnership with the NCcareLINK to disseminate information.	\$450,000	NR
53 North Carolina Arthritis Patient Services	Provides a grant-in-aid to the North Carolina Arthritis Patient Services to support activities.	\$50,000	NR
(6.0) Division of Social Services			
54 Work First Cash Assistance	Reduces State appropriations for Work First Cash Assistance.	(\$9,352,223)	R
		(\$800,000)	NR
55 Adjust State/County Special Assistance	Reduces funding for the State/County Special Assistance Program to the anticipated level of spending for FY 2008-09.	(\$2,500,000)	R
56 State/County Special Assistance Rate Increase	Provides funding to increase the State/County Special Assistance Rate from \$1,173 to \$1,207 per month, effective January 1, 2009. Counties will provide matching funds, resulting in a total funding increase of \$5,707,272.	\$2,853,636	R
57 Foster Care and Adoption Assistance Payments	Provides funding to increase foster care and adoption assistance payments and to implement a new foster care reimbursement system, effective January 1, 2009.	\$8,193,369	R
58 Adoption Incentive	Provides \$1,000,000 in receipts (\$500,000 from the Social Services Block Grant and \$500,000 from county funds) to help the families of an additional 125 medically-fragile adopted children in meeting non-medical expenses.		
59 Child Support Enforcement Fee Receipts	Increases budgeted receipts of \$1,800,000 in Child Support Enforcement (CSE) collected from a new federally-required fee for child support collections, effective October 1, 2007: \$1,200,000 for payment of federal receipts, \$450,000 for county-operated CSE offices, and \$150,000 to replace under-collected receipts in state-operated CSE offices.		
60 Food Banks	Provides funding to be equally distributed to the regional network for food banks in North Carolina. Up to \$500,000 of the increased funding may be used to offset increased costs for fuel consumption related to transporting food.	\$1,500,000	NR
61 Child Advocacy Centers	Provides funding for grants-in-aid for each certified child advocacy center.	\$350,000	R

62 Work First Block Grant Positions

Provides funding for two positions in Child Welfare Services to monitor the Work First Block Grant in all 100 counties to ensure compliance with federal regulations. Funded by \$118,000 from the federal TANF block grant.

Social Services Regional Program Representatives (2) - \$45,238 each, or \$90,476 in total.

63 Child Welfare Collaborative Funds

Provides funding to expand social work programs at four additional universities to increase the number of persons holding Bachelors of Social Work and Masters of Social Work degrees working in Child Protective Services in local departments of social services. In addition to this funding, up to \$2,738,827 is available for various child welfare training projects in the Social Services Block Grant. The four additional universities are:

- UNC-Charlotte,
- Fayetteville State University,
- UNC-Pembroke, and
- Western Carolina University.

\$900,000 NR

(7.0) Division of Medical Assistance

64 Technical Adjustment - Medicaid Rebase

Reduces funding for the Medicaid budget, primarily due to an increased Federal Medical Assistance Percentage (FMAP) and an increase in projected drug rebate collections.

(\$65,524,706) R

65 Provider Inflationary Freeze

Reduces funding for Medicaid provider inflation. The reduction applies to all public and private providers except for federally qualified health centers, rural health centers, school-based and school-linked health centers, State institutions, hospital outpatient, pharmacy, and the non-inflationary components of the case-mix reimbursement system for nursing facilities.

The reduction in requirements totals \$107,466,705 with a \$72,142,399 reduction in receipts and a \$35,324,306 reduction in State appropriation.

(\$35,324,306) R

66 Additional Drugs on the State Maximum Allowable Cost (SMAC) List

Reduces funding due to savings generated by adding generically available specialty drugs to the State Maximum Allowable Cost (SMAC) list and the pricing of single-source specialty drugs using enhanced specialty discounts.

(\$5,025,115) R

67 Management of Chronic Care by CCNC

Reduces funding for the Medicaid Program due to an expansion of the implementation of chronic care management programs for the aged, blind, and disabled through Community Care of North Carolina.

(\$29,445,618) R

68 Delayed Start to NC Kids' Care

Reduces funding for NC Kids' Care due to the delayed start of the Health Choice NC Kids' Care health insurance program to July 1, 2009.

(\$7,000,000) NR

<p>69 Community Support Program Refunds Reduces funding for the Community Support Services Medicaid program, with a \$37,390,624 reduction in requirements and a \$25,100,326 reduction in receipts. These funds are estimated based on refunds due to the State resulting from provider post-payment reviews and audits. The reduced receipts represent federal and county share of refunds.</p>	<p>(\$12,290,298) NR</p>
<p>70 Cap on Community Support Program Service Hours Reduces funding for the Community Support Services program due to a reduction in the allowable service hours per consumer per week from 15 to 8. Increased documentation will be required for a consumer to receive more than 8 hours per week. The reduction in requirements totals \$27,630,206, with a corresponding \$18,548,157 reduction in receipts.</p>	<p>(\$9,082,049) R</p>
<p>71 Tighten Eligibility and Revise Community Support Service Guidelines Reduces funding for the Community Support Services program due to cost-saving measures implemented in FY 2007-08, with a \$219,044,722 reduction in requirements and a \$147,044,722 reduction in receipts. Also provides nonrecurring funding to phase in the reduction. Requirements for the nonrecurring funding total \$21,135,908 with \$14,188,535 in receipts.</p>	<p>(\$72,000,000) R \$6,947,373 NR</p>
<p>72 Medicaid Appeals Process Provides funding for additional 7 permanent and 6 contract staff to the department to implement a new appeals process for consumers when Medicaid-funded services are terminated, reduced or denied. The total cost of the positions is \$933,110, supported by \$466,555 in Medicaid receipts. Permanent positions and annual salaries are listed below. Hearing Officer (4) - \$52,819 each, or \$211,276 in total Administrative Assistant III (3) - \$33,621 each, or \$100,863 in total.</p>	<p>\$217,021 R \$249,534 NR 7.00</p>
<p>73 Legal Positions in the Attorney General's Office Provides for the Attorney General's Office four time-limited attorney positions, one permanent attorney position, and paralegal to handle the backlog of community support appeals cases currently in the Office of Administrative Hearings. These positions will be funded through a contract with the Division of Medical Assistance.</p>	<p>\$70,934 R \$165,145 NR</p>

<p>74 CAP-MR/DD Tiered Slots</p> <p>Provides funding for the State's share of additional Community Alternatives Program Mental Retardation/Developmental Disability (CAP-MR/DD) slots beginning November 1, 2008. Total requirements for this item are \$20,281,919, with an increase in receipts of \$13,615,252.</p> <p>The full-year cost of the State's share in 2009-2010 will be \$10,000,000, which will be matched by Medicaid receipts totaling \$20,422,878 for a total cost of \$30,422,878 in 2009-2010.</p> <p>A per-capita share will be allocated for slots managed under the North Carolina Piedmont Behavioral Health Care 1915(b) and (c) Medicaid waiver (Cabarrus, Davidson, Rowan, Stanly and Union counties), and a per-capita share will be allocated for tier one slots to be managed under the North Carolina CAP-MR/DD 1915(c) Medicaid waiver (the remaining 95 counties).</p> <p>The funding for tier one slots will create up to 1,738 slots.</p>	<p>\$6,666,667</p>	<p>R</p>
<p>75 Mental Health Screenings and Assessments in Adult Care Homes</p> <p>Provides funding to implement a mental health screening program for residents of adult care homes. Non-recurring funds will allow for 7,800 evaluations in FY 2008-09; recurring funds will provide approximately 850 evaluations per year in future years.</p>	<p>\$198,846</p> <p>\$1,905,648</p>	<p>R</p> <p>NR</p>
<p>76 MMIS Code Conversion to HCPCS</p> <p>Provides funding for the conversion of locally-developed claims processing codes to nationally-accepted codes (HCPCS) in the existing MMIS system in order to comply with federal mandates.</p>	<p>\$3,500,000</p>	<p>NR</p>
<p>77 Program Integrity Section Improvements</p> <p>Provides funding for nine positions and operating expenses to increase the efficacy and efficiency of the Medicaid Program Integrity Section. Position classifications, number of FTEs, and annual salaries are listed below:</p> <p>Data Mining Project Manager (1) - \$69,082 Statistician (1) - \$63,044 Business Officer III (1) - \$66,001 Social Case Worker Field Investigator (4) - \$57,666 each, or \$230,664 in total Processing Assistants (2) - \$31,132 each, or 62,264 in total.</p> <p>Funds will also support a new data mining software to improve pharmacy recoupment activities and a consolidated complaint line.</p> <p>Savings are projected due to increased collections from overpayments of Medicaid claims.</p>	<p>(\$417,376)</p> <p>\$69,816</p> <p>9.00</p>	<p>R</p> <p>NR</p>

78 Money Follows the Person Administrative Funding	\$59,186	R
Provides funding for two positions and operating expenses to implement the federal Money Follows the Person grant. Position classifications, number of FTEs, and annual salaries are as follows:	(\$262,709)	NR
	2.00	
Mental Health Planner Evaluator (1) - 57,666		
Office Assistant III (1) - \$33,621.		
Savings generated by transitioning individuals from long-term care facilities to community-based services result in a net reduction in appropriation.		
79 Increase Dental Rates	\$5,000,000	R
Provides funding for a 5 percent increase in dental reimbursement rates.		
80 CCNC Medical Home and Patient Model Program	\$500,000	NR
Provides funding to develop a plan for implementing a medical home and patient centered collaborative model program to enhance the cost containment efforts of CCNC.		
(8.0) NC Health Choice		
81 NC Health Choice Expansion	\$9,411,246	R
Provides funding to expand the NC Health Choice program to support an additional 7,341 children, for a total of 129,694 children.		
82 NC Health Choice Claims Processing Transition	\$645,618	NR
Provides funding for costs associated with the transition of claims processing from the Blue Cross Blue Shield system to the new Power MHS system. Funds come from realigned NC FAST funds and \$850,000 in prior year earned revenue receipts.		
(9.0) Divisions of Services for the Blind and Services for the Deaf and Hard of Hearing		
83 Accessible Electronic Information for Blind and Disabled Persons	\$75,000	NR
Provides funding to continue accessible electronic information services for blind and disabled persons.		
(10.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
84 Budget Over-Realized Mixed Beverage Receipts	(\$500,000)	R
Increases budgeted receipts for substance abuse services based on historical collections of mixed-beverage receipts. Funds are paid to DHHS by local Alcohol Beverage Control boards as required by GS 18B-805(b)(3).		
85 Budget Patient Receipts to Anticipated Collection Amount	(\$15,000,000)	R
Increases budgeted patient receipts at the State's mental health, developmental disability, and substance abuse services facilities.		
86 Budget Prior Year Cost Settled Funds	(\$500,000)	NR
Increases budgeted receipts from prior year cost settled funds.		

87 Management Flexibility Reserve			
Reduces funding for new positions and associated costs funded in the Division of MH/DD/SAS by 30% and allows management flexibility in handling the cut. Of the funds reduced, \$4,083,477 is from salaries and benefits funding and \$191,653 from operating funding.		(\$4,275,130)	NR
88 Mobile Crisis Intervention Teams		\$4,655,000	R
Provides funding to provide operating subsidies to 30 mobile crisis teams state-wide. Also provides start-up funding for 11 crisis teams to bring the total number of teams state-wide to 30.		\$1,100,000	NR
89 New Local Psychiatric Inpatient Capacity		\$8,121,644	R
Provides funding for the State-paid share of new local psychiatric inpatient capacity (beds/bed days).			
90 START Crisis Model for Developmental Disabilities		\$1,737,250	R
Provides funding for 6 Developmental Disabilities Systemic, Therapeutic, Assessment, Respite, and Treatment (START) Crisis Model teams.		\$138,993	NR
91 Respite Beds for Developmental Disabilities		\$903,375	R
Provides funding for start-up and ongoing support of 12 respite beds for individuals with disabilities across the State.		\$177,617	NR
92 Walk-In Crisis and Immediate Psychiatric Aftercare		\$4,463,947	R
Provides funding to Local Management Entities (LMEs) for walk-in crisis and immediate psychiatric aftercare. Also provides funding for the purchase of telepsychiatry equipment.		\$1,650,000	NR
93 Clinical Staffing Ratios at Psychiatric Hospitals		\$7,275,824	R
Provides funding for 107 positions at the State's psychiatric hospitals to improve the direct care of clients by increasing staffing ratios. Total requirements for these positions are \$7,673,694, with \$397,870 in Medicaid receipts.			107.00
Licensed Practical Nurse (34) - \$36,847 each, or \$1,252,798 in total			
Registered Nurse B (40) - \$53,563 each, or \$2,142,520 in total			
Psychiatrist (7) - \$179,212 each, or \$1,254,484 in total			
Medical MD (1) - \$160,914			
Health Care Technician II (20) - \$29,002 each, or \$580,040 in total			
Health Care Technician III (5) - \$33,194 each, or \$165,970 in total.			

94 Clinical and Operational Enhancements of State Facilities

\$1,802,561 R
 \$51,951 NR
 19.00

Provides funding to improve training and supervision of direct care staff, for monitoring of State facilities, for pharmacy management, and for information technology and accounting positions. Total requirements for these positions are \$1,906,445, with \$103,884 in various Federal receipts.

Clinical Nurse Specialists (2 at each of the three psychiatric hospitals and one at each Alcohol and Drug Abuse Treatment Center)
 Nurse C (9) - \$63,044 each, or \$567,396 in total

State-Operated Services Compliance Team
 Mental Health Program Manager I (1) - \$57,666
 Mental Health Program Manager II (4) - \$63,044 each, or \$252,176 in total

Clinical Policy Section
 Pharmacy Manager III (1) - \$104,825

HEARTS Training Coordinator (patient billing system)
 Social/Clinical Research Specialist (1) - \$47,400

DHHS Controller's Office
 Accounting Technician III (1) - \$36,262
 Accounting Technician IV (1) - \$39,247

Longleaf Neuro-Medical Center
 Technology Support Technician (1) - \$40,590.

95 Recruitment and Workforce Development

\$1,270,519 R

Provides funding for recruitment and workforce development initiatives at State facilities, including psychiatrist loan repayment, increased recruitment efforts, and expansion of the Psychiatry Nurse Practitioner scholarship program. Funding for each item is as follows:

Psychiatrist Loan Repayment Program in Office of Rural Health - \$868,519

Expansion of Recruitment and Advertising Funding for Difficult-to-Recruit Positions - \$277,000

Psychiatric Nurse Practitioner Scholarship Program at UNC School of Nursing - \$125,000

Additionally, \$500,000 NR is included for sign-on bonuses for hard-to-recruit Registered Nurse positions at the State's psychiatric institutions in the Statewide Reserves Section of this report.

96 Resident Furnishings

Provides \$608,333 R and \$1,016,667 NR in receipts for replacing resident furnishings in poor condition in State mental health facilities.

97 Dorothea Dix Hospital Overflow Unit

\$5,212,166 NR
96.85

Provides funding for the Dorothea Dix Hospital Overflow Unit, a 60-bed unit to remain open on the Dorothea Dix campus after the opening of the new Central Regional Hospital. Total requirements for this item are \$10,731,103 with \$4,767,760 in receipts from Wake County and \$751,177 in Medicaid receipts.

The 60-bed unit will be staffed with a total of 174.75 FTEs, of which 77.9 will be funded by Wake County receipts and 96.85 are funded by State appropriation and Medicaid receipts. Position classifications, number of FTEs, and annual salaries for all 174.75 positions are listed below.

- Physician III-B (5.75) - \$150,000 each, or \$862,500 in total
- Physician III-B (2) - \$160,000 each, or \$320,000 in total
- Physician IV-B (1) - \$150,000
- Physician III-A (.5) - \$80,000
- Psychiatric Unit Administrator II (1) - \$75,000
- Senior Psychologist I (1.5) - \$70,000 each, or \$105,000 in total
- Physician Extender II (3) - \$73,819 each, or \$221,457 in total
- Nurse Supervisor B (1) - \$70,000
- Nurse B (33) - \$50,000 each, or \$1,650,000 in total
- Nurse B (4) - \$57,000 each, or \$228,000 in total
- Health Care Technician I (62) - \$25,000 each, or \$1,550,000 in total
- Health Care Technician II (4) - \$30,000 each, or \$120,000 in total
- Clinical Social Worker (6.5) - \$44,862 each, or \$291,603 in total
- Social Work Supervisor (1) - \$46,268
- Clinical Pharmacist (1) - \$95,000
- Clinical Dietitian I (1) - \$51,692
- Office Assistance IV (1) - \$25,495
- Occupational Therapist I (1.5) - \$57,548 each, or \$86,322 in total
- Therapeutic Recreational Specialist I (2.5) - \$34,237 each, or \$85,593 in total
- Rehabilitation Therapist (9) - \$30,000 each, or \$270,000 in total
- Advocate I (.5) - \$21,500
- Word Processor IV (1) - \$25,495
- Personnel Technician III (1) - \$42,536
- Office Assistant IV (3) - \$25,495 each, or \$76,485 in total
- Utilization Review Nurse (1) - \$45,000
- Patient Relations Representative V (1) - \$30,000
- Medical Records Assistant IV (1.5) - \$30,000 each, or \$45,000 in total
- Housekeeping Supervisor II (1) - \$24,767
- Floor Maintenance Assistant (1) - \$23,310
- Housekeeper (8.5) - \$23,310 each, or \$198,135 in total
- Kitchen Manager (1) - \$35,000
- Food Services Supervisor (1) - \$28,000
- Cook II (3) - \$25,000 each, or \$75,000 in total
- Food Services Assistant (6) - \$24,000 each, or \$144,000 in total
- Diet Clerk (1) - \$25,000
- Pharmacy Technician (1) - \$30,000.

98 Realignment of Mental Health Trust Fund Funding for Housing Initiative

(\$2,000,000) NR

Realigns unallocated funding from the Mental Health Trust Fund to the Housing Trust Fund to continue the MH/DD/SA Housing Initiative.

99 Continuing the MH/DD/SA Housing Initiative - Housing Trust Fund		
Provides \$7,000,000 in non-recurring funding (\$2,000,000 of which is realigned from the Mental Health Trust Fund) for the financing of additional independent- and supportive-living apartments for people with disabilities. The apartments shall be affordable to those with incomes at the Supplemental Security Income (SSI) level.		
The funds for this item are located in the Housing Finance Agency section of this report.		
100 Continuing the MH/DD/SA Housing Initiative - Operating Cost Subsidy	\$1,000,000	R
Provides funding for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities. The apartments shall be affordable to those with incomes at the SSI level.		
101 Julian F. Keith ADATC Pharmacy	\$472,785	R
Provides funding for four positions to create a pharmacy program at the Julian F. Keith Alcohol and Drug Abuse Treatment Center (ADATC) to serve the expanded acute treatment beds.		
The Substance Abuse Prevention and Treatment Block Grant includes \$70,000 for one-time start-up costs associated with the pharmacy.		
Position classifications, number of FTEs, and annual salaries are as follows:		
Clinical Pharmacist (1) - \$110,000		
Pharmacy Technician (2) - \$32,345 each, or \$64,690 in total		
Pharmacy Manager I (1) - \$120,536.		
102 Early Intervention for Autism	\$1,875,000	R
Provides funding for services for children ages 0-10 with autism (i.e., autism early intervention), as follows:		
\$625,000 to the Autism Society of North Carolina for training and collaboration with model programs and community agencies to increase availability of autism early intervention services.		
\$1,250,000 for the department to contract directly for three model programs of early intervention services.		
103 Autism Awareness and Education Video	\$30,000	NR
Provides funding to develop a video for autism education and awareness for public officials, including judicial branch officials. Funds will be allocated to the Treatment and Education of Autistic and Related Communication-Handicapped Children (TEACCH) at the University of North Carolina at Chapel Hill.		
104 Supportive Services for HUD 811 Projects	\$129,331	R
Provides funding for on-going operations and start-up expenses to support 6 two-bedroom and 19 one-bedroom apartments financed through the United States Department of Housing and Urban Development.		
	\$155,000	NR

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105 Program Service Funding for Group Homes	\$200,000	R
Provides funding for on-going program service funding for two group homes under development by the Mental Health Association in N.C., Inc.		
106 Traumatic Brain Injury Services	\$1,000,000	R
Provides funding for the provision of traumatic brain injury (TBI) services.		
107 Beyond Academics: Intellectual Disability Transition Program	\$200,000	NR
Provides funding to support Beyond Academics, a non-degree university-based program for students with developmental disabilities to assist them in living as independently as possible.		
(11.0) Division of Health Service Regulation		
108 Increase Staff for Reviewing Construction Plans	\$787,918	R
Provides funding for eight new positions for the Construction program to provide a more timely review of construction plans for health care and local confinement facilities. The funding for these positions will be offset by increased fees that will be deposited into the General Fund as non-tax revenue. Positions classifications, FTEs, and annual salaries are listed below.		
Building System Engineer III (1) - \$85,184		
Facility Architect II (3) - \$74,213 each, or \$222,639 in total		
Building System Engineer II (2) - \$74,213 each, or \$148,426 in total		
Building System Engineer I (1) - \$64,762		
Processing Assistant IV (1) - \$31,132.		
(12.0) Division of Vocational Rehabilitation		
109 Vocational Rehabilitation Case Services Program		
Reduces funding due to a decline in the number of consumers served.		
	(\$2,000,000)	NR
<hr/>		
Budget Changes	(\$182,650,591)	R
	(\$2,632,820)	NR
Total Position Changes	257.85	
Revised Total Budget	\$4,914,916,942	
<hr/>		

**NATURAL
&
ECONOMIC
RESOURCES
Section H**

Agriculture and Consumer Services

GENERAL FUND

Total Budget Approved 2007 Session

FY 08-09
\$60,699,001

Budget Changes

Agronomic Services

1 Soil Receiving Position \$31,872 R
Establishes a Research Technician position to track the increasing number of incoming soil samples for lime and fertilizer analysis and recommendations. 1.00

Department Wide Receipts

2 Over-Realized Receipts to Replace Appropriation (\$331,990) R
Incorporates \$331,990 in over-realized receipts from the following sources:

Pesticide Registration	\$151,990
Phytosanitary	\$55,000
Seed Dealer's License	\$10,000
Weight and Measures Fee	\$65,000
Calibration Fee	\$30,000
Fertilizer Tax	\$20,000

This reduction was included in the Governor's recommended reduction to the Department.

Emergency Programs

3 Receipt Supported Position
Allows for the creation of a Business & Technology Applications Analyst in Emergency Programs. This position will develop applications and provide information technology support as it relates to maintaining the Multi-Hazard Threat Database. It will be paid for by a federal grant.

Business & Technology Applications Analyst \$79,219

Food and Drug

4 Receipt Supported Position
Allows for the creation of an Agricultural Microbiologist II in Food and Drug. This position will be developing methodology to test for staphylococcal enterotoxins in a variety of food matrices that currently do not have any approved methods. It will be paid from federal receipts.

Agricultural Microbiologist II \$47,305

5 Over-Realized Receipts to Replace Appropriation (\$130,000) R

Incorporates \$130,000 in over-realized receipts from the following sources:

Noncan Pet Food Registration	\$45,000
Feed Analysis Fees	\$15,000
Drug Registration	\$45,000
Drug License Fee	\$25,000

This reduction was included in the Governor's recommended reduction to the Department.

Food Distribution

6 Farm to School Program \$200,000 NR

Re-establishes the NC Farm to School Program by providing seed money to the Division. This program will be self-supporting beginning in FY 2009-10.

Marketing

7 Over-Realized Receipts to Replace Appropriation (\$145,000) R

Incorporates \$145,000 in over-realized receipts from the following sources:

Gate/Admission Fee	\$75,000
Rental of Real Property	\$70,000

This reduction was included in the Governor's recommended reduction to the Department.

8 Green Industries Education and Promotion \$500,000 NR

Provides funding for the following items:

Got to Be NC	\$200,000
Water Conservation Education	\$ 75,000
Water Conservation Promotion	\$225,000

9 Marketing Funds \$50,000 NR

Funds shall be used for the promotion of agriculture festivals in small towns with populations less than 5,000. The amount per festival shall not exceed \$5,000.

Meat and Poultry

10 Food Safety and Security Positions \$141,335 R

Creates two additional food safety positions to provide food safety and security inspections as mandated by the USDA's Food Safety and Inspection Service. These positions are funded on a 50/50 split with the federal government. Establishing these positions will allow three new plants to open.

\$2,705 NR
2.00

Reserves and Transfers

11 Agricultural Development and Farmland Preservation (NCADFP) Trust Fund		
Provides funding for the NC ADFP Trust Fund to prevent the continued loss of our State's farmlands. Also, these funds will assist in the protection of our natural resources, wildlife habitat, and water resources.	\$4,000,000	NR
12 Operating Efficiency Reductions		
Reduces non-profit pass-through funding by the following amounts:	(\$750)	R
Ag in the Classroom	\$250	
Future Farmers of America	\$500	

Standards

13 Receipt Supported Positions		
Allows for the creation of two receipt supported positions within the Standards Division. Both are funded from the Highway Fund.		
The Standards Inspector I position responsible for testing retail motor fuel dispensers and responding to consumer complaints concerning meter accuracy and operation of the dispensers.		
The Chemistry Technician II is responsible for testing fuel quality, primarily at retail locations and collecting fuel samples for the Motor Fuels Lab, and responding to complaints and requests concerning fuel quality.		
Standards Inspector I	\$39,405	
Chemistry Technician II	\$34,694	

Veterinary Services

14 Receipt Supported Position		
Allows for the creation of a Medical Laboratory Technologist III. This position will develop and validate new viral and bacterial molecular tests for the BSL lab and provide surge laboratory testing support. This position is funded from a federal grant.		
Medical Lab Technologist II	\$67,672	
15 Transfer Support Positions from Federal Funding to State Appropriations	\$117,417	R
Transfers three federally funded administrative support positions to State appropriation due to a reduction in federal funds.	3.00	
16 Rollins Lab Incinerator and Freezers	\$525,000	NR
Appropriates funds to replace the incinerator at Rollins Lab and provide two freezers for the regional laboratory system.		

Budget Changes	(\$317,116)	R
	\$5,277,705	NR
Total Position Changes		6.00
Revised Total Budget	\$65,659,590	

Labor

GENERAL FUND

		FY 08-09	
Total Budget Approved 2007 Session		\$16,594,951	
<hr/>			
Budget Changes			
Elevator and Amusement Device Bureau			
17 Receipt Supported Positions			
Allows for the creation of two field supervisors in the Elevator and Amusement Device Bureau. These positions will be wholly receipt supported from fees charged for inspections.			
2 Elevator and Amusement Device Field Supervisors \$174,000			
Occupational Safety and Health			
18 Federal Funding Offset for Operating Funds		\$500,000	R
Provides funds to offset several years of static growth in federal funds.			
19 Replace Partially Funded Positions		\$51,392	R
Provides funds to make one OSHA Safety Officer and one Processing Assistant V wholly State supported. These positions are currently funded 50% State and 50% federal. Federal funds have been frozen, leaving the positions vacant. Moving these two positions to full State support will allow the Department to fill the positions to assist with increasing OSH inspections.			
		1.00	
20 Worker Safety Positions		\$350,000	R
Appropriates funds to fund new positions for a program to assure worker safety. These positions will evaluate workers and workforce conditions affecting worker safety and make recommendations as appropriate.			
		4.00	
<hr/>			
Budget Changes		\$901,392	R
Total Position Changes		5.00	
Revised Total Budget		\$17,496,343	
<hr/>			

Environment & Natural Resources

GENERAL FUND

FY 08-09
\$192,815,663

Total Budget Approved 2007 Session

Budget Changes

(1.0) Department Wide

21 Administration and Leasing Offices Operating Efficiencies (\$46,057) R

Reduces the following line items:

Administration Telephone	\$ 1,592
Administration Maintenance Agree-Serve	\$ 256
Regional Offices Leasing Budgets	\$44,209

This reduction was included in the Governor's recommended reduction to the Department.

(2.0) Coastal Management

22 Coastal Management Operating Efficiencies (\$14,886) R

Reduces the following line items in the Division of Coastal Management:

Temp Wages	\$7,250
Aid to Cities and Towns	\$6,836
Computer/Data Processing	\$ 800

This reduction was included in the Governor's recommended reduction to the Department.

(2.0) Environmental Health

23 Environmental Health Operating Efficiencies (\$394,833) R

Reduces the following line items in the Division of Environmental Health:

Other Contracts/Grants	\$ 39,297
Trans Air-Out-State	\$ 11,145
Autos, Trucks, & Bus	\$ 2,633
Trailers	\$ 2,632
Rent/Lease Motor Vehicles	\$ 1,932
Transp-Grnd-In State	\$ 1,932
Rent/Lease Motor Vehicles	\$ 1,059
Aid To Counties*	\$105,600
Aid to Cities and Towns*	\$224,400
Other Facility & Hardware	\$ 1,000
Other Materials & Supplies	\$ 1,172
Postage, Freight	\$ 1,000
Print, Bind, Duplicate	\$ 594
Lodging-In-State	\$ 437

This reduction was included in the Governor's recommended reduction to the Department.

*These items reduce the Mosquito Control Fund.

(2.0) Land Resources

24 Land Resources Operating Efficiencies (\$19,343) R

Reduces the following line items the Division of Land Resources:

Rent/Lease Motor Vehicles	\$16,019
Misc. Contractual Services	\$ 1,088
Misc. Contractual Services	\$ 1,215
Computer/Data Processing	\$ 1,021

This reduction was included in the Governor's recommended reduction to the Department.

25 Landslide Hazard Mapping Program \$341,305 R

Provides funds to fund shift three positions and operating expenses to General fund support from special Hurricane Recovery Act of 2005 funds. Three positions were already fund shifted in the FY 2007-08 budget.

3.00

(2.0) Pollution Prevention & Env. Assistance

26 Pollution Prevention and Environmental Assistance Operating Efficiencies (\$6,004) R

Reduces the following line items in Pollution Prevention and Environmental Assistance:

Trans Air-Out-State	\$1,000
Lodging-Out-State	\$1,000
General Office Supplies	\$1,000
Rent-Lease Motor Vehicle	\$1,000
Meals-In-State	\$ 250
Registration Fees	\$1,000
PC/Printer Equipment	\$ 754

This reduction was included in the Governor's recommended reduction to the Department.

27 Continue Environmental Stewardship Initiative \$276,624 R

Restores funding for the Environmental Stewardship Initiative. This funding was made non-recurring in FY2007-08 pending a continuation review.

(2.0) Waste Management

28 Waste Management Operating Efficiencies

(\$15,501) R

Reduces the following line items in the Division of Waste Management:

Transportation Air-Out of State	\$2,000
Transp-Grnd-In State	\$5,000
Other Materials & Supplies	\$2,000
Rent/Lease Motor Vehicles	\$1,500
Meals-In-State	\$ 473
Telephone	\$2,000
Lodging-Out of State	\$1,000
Meals-Out of State	\$ 500
Internet Service	\$ 600
Postage, Freight	\$ 428

This reduction was included in the Governor's recommended reduction to the Department.

29 Receipt Supported Positions

Allows for the creation of six positions for the inactive hazardous sites program. These positions are being created in response to the passage of SB 1492 (S.L. 2007-550) which created a new program to assess and correct the hazards posed by old unlined landfills. The hydrogeologist positions will review hydrogeological assessment plans and reports, conduct groundwater and surface water assessments, and oversee contamination remediation. The Environmental Engineer II will establish and direct state contracts to address cleanup, including reviewing design specifications and other engineering documents. The Environmental Program Supervisor II will supervise these staff members.

4 Hydrogeologist II	\$301,012
1 Environmental Engineer II	\$ 80,650
1 Environmental Program Supervisor II	\$ 80,401

30 Receipt-Supported Positions

Allows for the creation of two new positions for the Dry Cleaning Solvent Cleanup Program. The Environmental Specialist will inspect dry cleaning facilities in the eastern part of the State. The Environmental Senior Specialist will serve as an enforcement specialist, providing technical support to field inspectors for facilities with serious compliance violation. This position will also provide technical assistance to operators in ensuring that violations are addressed.

1 Environmental Specialist	\$60,224
1 Environmental Senior Specialist	\$67,871

(2.0) Water Quality

31 Water Quality Operating Efficiencies

(\$73,960) R

Reduces the following line items in the Division of Water Quality:

Furniture-Office	\$ 940
Service & Other Award	\$ 388
Equipment-Scientific/Med	\$ 3,864
Equipment-Scientific/Med	\$ 9,365
Carpentry & Hardware	\$ 4,050
Sand, Gravel, Concrete	\$ 2,000
Other Facility & Hardware	\$ 1,500
Other Materials & Supplies	\$ 4,500
Lodging-In State	\$ 3,560
Other Materials & Supplies	\$ 2,000
Meals-In-State	\$ 1,500
Meals-Out of State	\$ 1,500
Registration Fees	\$ 3,501
Security & Safety Supplies	\$ 2,500
Scientific Supplies	\$ 3,500
Office Equipment	\$ 3,000
Equipment-Scientific/Med	\$ 2,500
Other DP Equipment	\$20,792
Other Computer Software	\$ 3,000

This reduction was included in the Governor's recommended reduction to the Department.

32 Swine Farm Permitting and Compliance Positions

\$108,550 R

Transfers three existing positions for swine farm permitting and compliance program to General Fund positions. The positions are funded by the Smithfield Grant through December 2008.

3.00

33 Water Quality Monitoring on Ferry Vessels

\$384,355 NR

Provides funds for the FerryMon and ModMon Programs which evaluate water quality in the Pamlico Sound, tributary rivers, and the Neuse River using equipment attached to ferry vessels.

(2.0) Water Resources

34 Water Resources Operating Efficiencies

(\$33,408) R

Reduces the following line items in the Division of Water Resources:

Meals-In-State	\$5,000
Rent/Lease Motor Vehicles	\$5,000
Registration Fees	\$2,000
Other Materials & Supplies	\$5,000
Furniture-Office	\$2,000
Other DP Equipment	\$3,000
Other Equipment	\$1,649
Other Expenses	\$2,000
Emp Education Assist	\$2,000
Membership Dues & Subs	\$1,000
Data Processing Supp	\$1,000
Education Supplies	\$1,000
PC/Printer Equipment	\$1,000
General Office Supplies	\$1,000
Textbooks	\$ 759

This reduction was included in the Governor's recommended reduction to the Department.

35 River Basin Water Supply Planning

\$482,384 R

Provides funding for five new positions to work on river basin water supply plans to ensure sustainability of the State's water supplies in each river basin. Provides funding to strengthen the water use database, as well as funding to perform instream flow studies. Also provides funding for staff support to the State's river basin commissions. Funds may be used to pay for expenses associated with the river basin commissions.

\$26,000 NR
5.00

(3.0) Aquariums

36 Transfer Oyster Hatchery Research Funding to Marine Fisheries

(\$600,000) R

Transfers \$600,000 to the Division of Marine Fisheries to fund the Oyster Sanctuary Program.

37 Aquariums Operating Efficiencies

(\$114,754) R

Reduces the following line items in for the Aquariums:

Advertising	\$31,842
Printing	\$ 234
General Contracting	\$28,209
Vehicles	\$49,469
Other Expenses	\$ 5,000

This reduction was included in the Governor's recommended reduction to the Department.

(3.0) Forest Resources

38 Forest Resources Operating Efficiencies (\$412,278) R

Reduces the following line items in the Division of Forest Resources:

Straight Overtime Pay	\$ 50,052
Overtime Pay	\$352,053
Holiday Pay	\$ 10,173

This reduction was included in the Governor's recommended reduction to the Department.

39 Forest Development Fund (\$589,500) R

Changes the funding for the Forest Development Fund to non-recurring. \$589,500 NR
 This program is subject to continuation review.

(3.0) Marine Fisheries

40 Transfer Commercial License Receipt Positions to State Appropriations \$500,000 R

Transfers 16 partially funded positions from commercial license receipts to State appropriations due to the decline in receipts. The net effect of this transfer is 8.62 FTE. 8.62

41 Oyster Sanctuary Program \$2,000,000 R

Provides funds to establish six positions for the Oyster Sanctuary Program in the Division of Marine Fisheries. Also provides funds for the equipment, operations, and materials needed to run the program. 8.00

(3.0) Museum of Natural Sciences

42 Museum Operating Efficiencies (\$50,242) R

Reduces the following line items in for the Museum:

Office Furniture	\$ 5,000
Other DP Equipment	\$ 45,242

This reduction was included in the Governor's recommended reduction to the Department.

(3.0) Office of Environmental Education

43 Environmental Education Operating Efficiencies (\$2,413) R

Reduces the following line items in the Office of Environmental Education:

Office Equipment	\$1,708
Other Expenses	\$ 705

(3.0) Parks and Recreation

44 Parks and Recreation Operating Efficiencies (\$235,177) R

Reduces the following line items in the Division of Parks and Recreation:

Other Equipment	\$235,177
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This reduction was included in the Governor's recommended reduction to the Department.

(3.0) Soil and Water Conservation

45 NC Agriculture Cost Share Financial Assistance	(\$268,331)	R
Reduces the financial assistance side of the Agriculture Cost Share program.		
This reduction was included in the Governor's recommended reduction to the Department.		
46 NC Agriculture Cost Share Technical Assistance	\$200,000	NR
Provides money for the 50-50 cost share to local soil and water conservation districts and counties for technical and engineering assistance in promoting water quality best-management practices through the Agriculture Cost Share Program.		
47 Agricultural Drought Response	\$1,500,000	NR
Funds the following items:		
Pasture Renovation	\$1,150,000	
Well Drilling and Repair	\$ 200,000	
Pond Renovation or Construction	\$ 150,000	
48 Lagoon Conversion Program	\$72,633	R
Continues the lagoon conversion program established in S.L. 2007-523. The program awards grants to assist in converting existing anaerobic lagoon animal waste management systems to more technologically advanced animal waste management systems. Creates an Environmental Engineer II position to provide technical assistance and oversee the implementation of the grants.		
	\$14,294	NR
	1.00	
49 Travel Funding for Soil and Water Conservation Districts	\$50,000	NR
Provide additional funds to reimburse Soil and Water Conservation District supervisors for travel related expenses.		

(3.0) Zoo

50 NC Zoological Park Operating Efficiencies	(\$50,473)	R
Reduces the following line items for the Zoo:		
Other Motorized Vehicles	\$50,473	
This reduction was included in the Governor's recommended reduction to the Department.		

(4.0) Reserves and Transfers

51 Drought Reserve	\$660,000	NR
Provides funding for the following drought-related items:		
Three Water Supply Interconnections	\$300,000	
Local Water Audits	\$310,000	
Drought Education Materials	\$ 50,000	
52 Clean Water State Revolving Fund Match	\$2,456,249	NR
Provides funds to meet the 20% State match requirement for drawing down the maximum available federal funds for the Wastewater Treatment Plant (Clean Water) State Revolving Fund.		

Conference Report on the Continuation, Capital and Expansion Budgets

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53 Drinking Water State Revolving Fund Match

Provides funds to meet the 20% State match requirement for drawing down the maximum available federal funds for the Drinking Water State Revolving Fund.

\$5,539,000 NR

Budget Changes	\$854,336	R
	\$11,419,398	NR
Total Position Changes	26.62	
Revised Total Budget	\$205,089,397	

DENR-Clean Water Management Trust Fund

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09 \$100,000,000
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Budget Changes

54 Statutory Appropriation Pursuant to G.S. 113A-253.1
No legislative adjustments.

Budget Changes

Total Position Changes

Revised Total Budget **\$100,000,000**

Commerce

GENERAL FUND

FY 08-09

Total Budget Approved 2007 Session

\$45,289,341

Budget Changes

A. Administrative Services

55 Administrative Services Operating Efficiencies (\$18,215) R
 Reduces the Computer/Data Processing line item in the Administrative Services budget. This reduction was included in the Governor's recommended reduction to the Department.

B. Executive Aircraft

56 Aircraft Lease (\$1,156,428) NR
 Delays the lease of a replacement aircraft for the King Air B-200. The Department will not take receipt of the new aircraft until June 2009.

57 Executive Aircraft Operating Efficiencies (\$20,651) R
 Reduces the Other Insurance line item in the Executive Aircraft budget. This reduction was included in the Governor's recommended reduction to the Department.

C. Science and Technology

58 Science and Technology Operating Efficiencies (\$2,628) R
 Reduces the Miscellaneous Contractual Service line item in the Science & Technology budget. This reduction was included in the Governor's recommended reduction to the Department.

D. MIS

59 Management Information Services (MIS) Operating Efficiencies (\$9,727) R
 Reduces the Office Furniture line item in the MIS budget. This reduction was included in the Governor's recommended reduction to the Department.

E. Policy and Research

60 Policy and Research Operating Efficiencies (\$8,916) R
 Reduces the Misc. Contractual Service line item in the Policy and Research budget. This reduction was included in the Governor's recommended reduction to the Department.

61 Economic Development Information System \$150,000 NR
 Provides funds for the continued expansion of the Economic Development Information System (EDIS) and to increase the ability of the Department to provide strategic economic impact analysis.

F. Marketing

62 Marketing Operating Efficiencies (\$8,042) R
 Reduces the Print, Bind, Duplicate line item in the Marketing budget. This reduction was included in the Governor's recommended reduction to the Department.

Commerce

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63 Commerce Webmaster	\$78,900	R										
<p>Provides funds to establish a webmaster position within the Department of Commerce. The position will be responsible for both editorial and marketing content for the Department's website, and will provide division content authors with editorial oversight to ensure Commerce's overall message stays unified throughout the site. In addition, the position will support the implementation of metrics-based marketing analytics to track the website's effectiveness and then manage Internet-based marketing programs to increase both site traffic and site effectiveness.</p>	1.00											
64 Transfer High Point Furniture Market Funds to State Aid	(\$875,000)	R										
<p>Transfers the pass-through appropriation to the High Point International Home Furnishings Market Authority Corporation to the Commerce - State Aid fund code. Most recurring funding for non-profits that passes through Commerce is in the State Aid budget.</p>												
G. Business and Industry												
65 Business and Industry Operating Efficiencies	(\$41,768)	R										
<p>Reduces the following line items in the Business and Industry Division:</p> <table border="0" style="margin-left: 20px;"> <tr> <td>Janitorial Services</td> <td style="text-align: right;">\$ 6,000</td> </tr> <tr> <td>Trans. Air In-State</td> <td style="text-align: right;">\$10,000</td> </tr> <tr> <td>General Office Supplies</td> <td style="text-align: right;">\$10,768</td> </tr> <tr> <td>Advertising</td> <td style="text-align: right;">\$10,000</td> </tr> <tr> <td>Emp. Education Asst.</td> <td style="text-align: right;">\$ 5,000</td> </tr> </table> <p>This reduction was included in the Governor's recommended reduction to the Department.</p>	Janitorial Services	\$ 6,000	Trans. Air In-State	\$10,000	General Office Supplies	\$10,768	Advertising	\$10,000	Emp. Education Asst.	\$ 5,000		
Janitorial Services	\$ 6,000											
Trans. Air In-State	\$10,000											
General Office Supplies	\$10,768											
Advertising	\$10,000											
Emp. Education Asst.	\$ 5,000											
66 Building and Sites Website Redesign	\$100,000	NR										
<p>Provides funds for the redesign and upgrade of the Building and Sites website.</p>												
H. International Trade												
67 International Trade Operating Efficiencies	(\$19,146)	R										
<p>Reduces the following line items in the International Trade Division:</p> <table border="0" style="margin-left: 20px;"> <tr> <td>Advertising</td> <td style="text-align: right;">\$10,000</td> </tr> <tr> <td>Trans. Air Out-of-State</td> <td style="text-align: right;">\$ 5,000</td> </tr> <tr> <td>Lodging - Out-of-Country</td> <td style="text-align: right;">\$ 4,146</td> </tr> </table> <p>This reduction was included in the Governor's recommended reduction to the Department.</p>	Advertising	\$10,000	Trans. Air Out-of-State	\$ 5,000	Lodging - Out-of-Country	\$ 4,146						
Advertising	\$10,000											
Trans. Air Out-of-State	\$ 5,000											
Lodging - Out-of-Country	\$ 4,146											
68 International Affairs Council	(\$19,000)	R										
<p>Eliminates the pass-through appropriation to the International Affairs Council.</p>												
69 International Trade Office - China	\$175,000	R										
<p>Provides funding to support a new International Trade Office in China, beginning in January, 2009. Funds will be used to contract for one position to work with business and industry in China to recruit Chinese investment in the State, and one position to work with North Carolina companies to increase trade with China.</p>												

<p>70 Performance Bonuses & Inflationary Increases Provides \$10,000 to provide a performance increase for staff in five foreign trade offices. Also provides \$15,000 for inflationary increases for these offices.</p>	<p>\$25,000</p>	<p>R</p>												
<p>I. Tourism, Film, and Sports Development</p>														
<p>71 Tourism, Film, and Sports Development Operating Efficiencies Reduces the following line items in the Tourism, Film, and Sports Development Division:</p> <table border="0" style="margin-left: 40px;"> <tr> <td>Lodging Out-of-Country</td> <td style="text-align: right;">\$ 8,926</td> </tr> <tr> <td>Postage, Freight, & Delivery</td> <td style="text-align: right;">\$40,000</td> </tr> <tr> <td>Trans. Air Out-of-Country</td> <td style="text-align: right;">\$ 5,000</td> </tr> <tr> <td>Print, Bind, Duplicate</td> <td style="text-align: right;">\$20,000</td> </tr> <tr> <td>Memberships, Dues, & Subscrip.</td> <td style="text-align: right;">\$10,000</td> </tr> <tr> <td>General Office Supplies</td> <td style="text-align: right;">\$ 5,000</td> </tr> </table> <p>This reduction was included in the Governor's recommended reduction to the Department.</p>	Lodging Out-of-Country	\$ 8,926	Postage, Freight, & Delivery	\$40,000	Trans. Air Out-of-Country	\$ 5,000	Print, Bind, Duplicate	\$20,000	Memberships, Dues, & Subscrip.	\$10,000	General Office Supplies	\$ 5,000	<p>(\$88,926)</p>	<p>R</p>
Lodging Out-of-Country	\$ 8,926													
Postage, Freight, & Delivery	\$40,000													
Trans. Air Out-of-Country	\$ 5,000													
Print, Bind, Duplicate	\$20,000													
Memberships, Dues, & Subscrip.	\$10,000													
General Office Supplies	\$ 5,000													
<p>72 Travel and Tourism Funds Provides additional funds for the Division of Tourism, Film, and Sports Development</p>	<p>\$300,000</p>	<p>NR</p>												
<p>J. Welcome Centers</p>														
<p>73 Welcome Center Operating Efficiencies Reduces the following line items in the Welcome Centers budget:</p> <table border="0" style="margin-left: 40px;"> <tr> <td>Trans. Ground</td> <td style="text-align: right;">\$4,000</td> </tr> <tr> <td>Clothing & Uniforms</td> <td style="text-align: right;">\$2,923</td> </tr> </table> <p>This reduction was included in the Governor's recommended reduction to the Department.</p>	Trans. Ground	\$4,000	Clothing & Uniforms	\$2,923	<p>(\$6,923)</p>	<p>R</p>								
Trans. Ground	\$4,000													
Clothing & Uniforms	\$2,923													
<p>K. Wanchese Seafood Industrial Park</p>														
<p>74 Wanchese Operating Efficiencies Reduces the Repairs - Buildings line item in the Wanchese Seafood Industrial Park budget. This reduction was included in the Governor's recommended reduction to the Department.</p>	<p>(\$3,339)</p>	<p>R</p>												
<p>L. Commerce Finance</p>														
<p>75 Commerce Finance Operating Efficiencies Reduces the PC Software line item in the Commerce Finance budget. This reduction was included in the Governor's recommended reduction to the Department.</p>	<p>(\$4,080)</p>	<p>R</p>												
<p>76 One North Carolina Fund Provides funds for One North Carolina to offer economic development incentive grants to businesses creating new jobs in the State for infrastructure, repair and renovation, and machine or equipment purchases.</p>	<p>\$5,000,000</p>	<p>NR</p>												

77 One North Carolina Small Business

Appropriates funds for the Department of Commerce to provide grants under the North Carolina SBIR/STTR Incentive Program.

\$3,500,000 NR

78 Green Business Fund

Appropriates funds to the NC Green Business Fund to provide grants to private businesses with less than 100 employees, non-profit organizations, and State agencies to encourage the growth of a green economy in the State.

\$1,000,000 NR

M. Community Assistance

79 Community Assistance Operating Efficiencies

(\$21,518) R

Reduces the following line items in the Division of Community Assistance:

Transp.- Ground In-State	\$ 4,016
Office Furniture	\$ 2,500
Office Equipment	\$ 1,500
PC/Printer Equipment	\$12,002
PC Software	\$ 1,500

This reduction was included in the Governor's recommended reduction to the Department.

N. Industrial Commission

80 Industrial Commission Operating Efficiencies

(\$49,623) R

Reduces the following line items in the Industrial Commission budget:

Legal Services	\$ 4,000
Misc. Contractual Serv.	\$ 4,000
Repairs - Bldgs	\$10,000
Print, Bind, Duplicate	\$ 2,000
Registration Fees	\$ 1,500
Other Employee Education	\$ 500
Data Processing Supplies	\$ 5,000
Other Materials & Supplies	\$ 2,000
Office Equipment	\$ 9,500
Other Equipment	\$ 500
Library & Learning Res.	\$ 8,523
Memberships, Dues, & Subscrip.	\$ 2,100

This reduction was included in the Governor's recommended reduction to the Department.

81 Receipt Supported Position

Allows for the creation of a Technology Application Specialist in the Industrial Commission. The position will assist in the replacement of the Electronic Document Management System (EDMS), and will be paid from the compromised settlement fee being used to support replacement of the EDMS system.

Technology Application Specialist	\$110,620
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82 Continuation Review of the Safety Inspection Program

Changes the funding for the Safety Inspection Program in the Industrial Division to non-recurring. This program is subject to continuation review.

(\$671,665) R
\$671,665 NR

O. Wine and Grape Growers Council

83 Receipt Supported Positions

Allows for the creation of the following receipt supported positions for the Wine and Grape Growers Council:

2 Tourist Information Specialists \$132,476

These positions will assist the Executive Director in responding to the growing demand for marketing and consultative work among grape growers and wineries in the State. The Grape Growers Council is fully supported by receipts from the excise tax collected on unfortified wine (G.S. 105-113.81A). Those receipts will also support the additional positions.

Budget Changes	(\$1,590,267)	R
	\$9,565,237	NR
Total Position Changes		1.00
Revised Total Budget	\$53,264,311	

Commerce - State Aid

GENERAL FUND

		FY 08-09	
Total Budget Approved 2007 Session		\$21,361,485	
<hr/>			
Budget Changes			
84 Non-Profit Operating Efficiencies		(\$213,615)	R
Reduces pass-through appropriations to non-profits by one percent.			
85 Eliminate Fund Balance for Manchester CDC, Inc.		(\$10,000)	NR
Eliminates a fund balance for Manchester CDC, Inc. These funds were appropriated for this entity in FY 2005-06, but were never drawn down.			
86 Transfer Furniture Market Funds to State Aid		\$866,250	R
Transfers the pass-through appropriation to the High Point International Home Furnishings Market Authority Corporation from the Commerce fund code and reduces the appropriation by one percent. All recurring funding for non-profits that passes through Commerce is in the State Aid budget.			
87 Coalition of Farm and Rural Families		\$158,943	NR
Provides funds to the Coalition of Farm and Rural Families.			
88 Johnson and Wales University		\$1,500,000	NR
Provides funds to Johnson and Wales University in Charlotte, a private university that specializes in the culinary and hospitality industries.			
89 Defense and Security Technology Accelerator		\$1,500,000	NR
Provides funds for the Partnership for Defense Innovation to support the Defense and Security Technology Accelerator, a business incubator focusing on economic development opportunities in industries relating to homeland security and national defense.			
90 Biofuels Center of North Carolina		\$5,000,000	NR
Provides funds for the Biofuels Center's costs of implementing the North Carolina Strategic Plan for Biofuels Leadership developed under S.L. 2006-206.			
91 e-NC Authority		\$1,500,000	NR
Provides funds to the e-NC Authority to increase the availability of internet connectivity in underserved areas of the State.			
92 Community Development Initiative		\$1,000,000	NR
Provides funds to the North Carolina Community Development Initiative, Inc. to provide mini-environmental and conservation grants under its existing Green Fund conservation-based affordable housing program. Grants will be used to reduce energy costs, conserve water, and provide other environmental benefits.			

Conference Report on the Continuation, Capital and Expansion Budgets

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93 Minority Support Center

Provides funds for the Minority Support Center, Inc., to provide financial assistance to small businesses unable to obtain adequate financing and bonding assistance in connection with contracts.

\$1,000,000 NR

Budget Changes

\$652,635 R

\$12,248,943 NR

Total Position Changes

Revised Total Budget

\$34,263,063

N.C. Biotechnology Center

GENERAL FUND

	FY 08-09	
Total Budget Approved 2007 Session	\$15,583,395	
Budget Changes		
94 Biotech Center Operating Efficiencies	(\$155,834)	R
Reduces the pass-through appropriation to the NC Biotechnology Center by one percent.		
95 Building Expansion	\$2,500,000	NR
Provides funds for the NC Biotechnology Center's building expansion project. Remaining funds necessary for the project will come from private and federal sources.		
96 Economic Development Loan Program	\$1,500,000	NR
Provides funds to expand the Biotechnology loan program for pre-venture, start-up companies.		
Budget Changes	(\$155,834)	R
	\$4,000,000	NR
Total Position Changes		
Revised Total Budget	\$19,427,561	

Rural Economic Development Center

GENERAL FUND

		FY 08-09
Total Budget Approved 2007 Session		\$24,302,607
<hr/>		
Budget Changes		
97 Rural Center Operating Efficiencies		(\$243,026) R
Reduces the pass-through appropriation to the Rural Center by one percent.		
98 Water, Sewer, and Natural Gas Funds		\$50,000,000 NR
Appropriates additional funds to the Rural Center to provide grants to local units of government to address critical needs related to supplying drinking water, wastewater treatment, and natural gas lines.		
99 Rural Economic Transition Program		\$4,000,000 NR
Provides funds to continue and expand the Rural Economic Transition Program. Funds shall be used to provide grants for building reuse and restoration projects, for economic recovery and revitalization programs in small towns, and for innovative economic development and agriculture diversification projects.		
Budget Changes		(\$243,026) R
		\$54,000,000 NR
Total Position Changes		
Revised Total Budget		\$78,059,581

**JUSTICE
&
PUBLIC SAFETY
Section I**

Judicial

GENERAL FUND

Total Budget Approved 2007 Session **FY 08-09**
\$452,389,917

Budget Changes

Appellate

1 Expansion of Innocence Inquiry Commission	\$121,537	R
Funding is provided for two (2) new positions, Investigator and Secretary II, to provide adequate support to the Innocence Inquiry Commission.	\$18,537	NR
	2.00	

Department-wide

2 Reduce Telephone Service	(\$927,972)	R
Reduce funding for telephone service charges. Should SB 2107 become law, effective July 1, 2008, a special reserve fund will be used, instead of the General Fund, to pay for the monthly service charges for the AOC and county courthouse telephone systems.		
3 Reduce Telephone Equipment	(\$730,277)	R
Reduce funding for telephone equipment. Should SB 2107 become law, effective July 1, 2008, a special reserve fund will be used, instead of the General Fund, to purchase and install AOC and county courthouse telephone systems.	(\$1,695,084)	NR
4 Funds to Assist Low Income Home Owners	\$200,000	R
Funds are provided to the North Carolina State Bar to provide \$100,000 R to the Land Loss Prevention Project and \$100,000 R to the Financial Protection Law Center for the provision of legal assistance to low-income consumers in cases involving predatory mortgage lending, mortgage broker and loan services abuses, foreclosure defense, and other legal issues that relate to helping low-income consumers avoid foreclosure and home loss.		

District Attorneys

5 Restore DA Conference Funds	\$401,289	R
Governor's Recommendation: restore the recurring funds for the Conference of District Attorneys. The funds were eliminated pending the findings of a continuation review.	5.00	
6 New Prosecutor Positions	\$300,021	R
Funding is provided for three (3) new Assistant District Attorney Positions to be allocated as recommended by AOC:	\$11,295	NR
	3.00	
1.0 Mecklenburg		
1.0 Wake		
1.0 Harnett, Johnston, Lee		

7 Receipt-Supported Positions - Mecklenburg

The Mecklenburg County DA's Office may establish eight (8) time-limited Assistant District Attorney positions using funds provided by Mecklenburg County and/or the city of Charlotte:

Assistant District Attorney 8.0

Sentencing Commission

8 Sentencing and Policy Advisory Commission Staff

Funds are provided for a Senior Research and Policy Associate to assist the Commission with the formulation of sentencing laws and policy and with various research activities requested by the Legislature.

\$102,913 R
\$11,527 NR
1.00

Trial Courts

9 Dispute Resolution Centers

Governor's Recommendation: eliminate budget for the closed dispute resolution centers: Scotland (\$35,000), 1st District (451,977), and Polk (\$16,831)

(\$103,808) R

10 Eliminate Special Superior Court Judge Position

Eliminate one vacant special superior court judge position, which was previously not included in the Judicial Branch expansion budget request.

(\$159,651) R
-1.00

11 Restore Clerks Conference Funding

Governor's Recommendation: restore recurring funding for the Clerks of Superior Court Conference. The funds were eliminated pending the findings of a continuation review.

\$121,402 R
2.00

12 Eliminate Drug Treatment Court Reserve

Eliminate 2.75 drug treatment court positions authorized during the 2007 long session to replace existing federal and county grant funds. Of the 5.75 positions of this nature, 3.00 FTE have been established. Funds for 2.75 FTE remain in a reserve for this purpose.

(\$294,613) R
-2.75

13 Eliminate Judicial Assistants

Eliminate 2 judicial assistant positions authorized in the 2007 long session to assist the new special superior court judges.

(\$84,862) R
(\$6,668) NR
-2.00

14 Guardian ad Litem Program Staff

Funding is provided for 3 new program supervisor positions and to upgrade a part-time program supervisor position to full time. In addition, funds are provided to upgrade 7 program assistant positions from part time, 0.75 FTE, to full time.

\$318,664 R
\$8,478 NR
5.00

15 New District Court Judge Positions

Funding is provided for three (3) new district court judge positions effective January 15, 2009. The positions shall be allocated as recommended by AOC:

Dist 26 Mecklenburg
Dist 10 Wake
Dist 11 Harnett, Johnston, Lee

\$226,236 R
\$29,496 NR
3.00

Conference Report on the Continuation, Capital and Expansion Budgets

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16 New Deputy Clerk Personnel		\$149,014	R
Provides funding for 4 new Deputy Clerk positions to more effectively manage Superior and District Court caseloads.		\$7,303	NR
		4.00	
17 New Magistrate Positions		\$287,310	R
Funding is provided for 10 new magistrate positions, effective 01/01/09, to be allocated as recommended by AOC:		\$47,620	NR
		10.00	
County	# Positions		
Durham	1.0		
Forsyth	1.0		
Gaston	1.0		
Guilford	1.0		
Mecklenburg	4.0		
Wake	2.0		
18 New District Court Judicial Support Staff		\$72,039	R
Funding is provided for three (3) District Court Judicial Assistant I positions, effective 01/15/09.		\$9,999	NR
		3.00	
Budget Changes		(\$758)	R
		(\$1,557,497)	NR
Total Position Changes		32.25	
Revised Total Budget		\$450,831,662	

Judicial - Indigent Defense

GENERAL FUND

	FY 08-09	
Total Budget Approved 2007 Session	\$115,991,348	
Budget Changes		
Department-Wide		
19 Reduce Various Operating Budgets	(\$200,000)	R
Governor's Recommendation: eliminate inflationary increases and reduce various operating line items such as lodging, transportation, supplies, etc.		
Indigent Person Attorney		
20 Funding for Private Assigned Counsel	\$1,135,000	NR
Provide \$1,135,000 NR to address the increased demands for private assigned counsel as a result of continued growth and indigency rates.		
21 Eliminate Public Defender Expansion Funds	(\$1,570,057)	R
Eliminate the funds provided in S.L. 2007-323 to expand the number of public defender offices and attorney positions around the state.		
Sentencing Services		
22 Funding for Local Programs	\$200,000	NR
Funding is provided to maintain grants for local Sentencing Services programs operated by non-profit agencies at the FY 2007-08 level.		
Budget Changes	(\$1,770,057)	R
	\$1,335,000	NR
Total Position Changes		
Revised Total Budget	\$115,556,291	

Justice

GENERAL FUND

		FY 08-09	
Total Budget Approved 2007 Session		\$92,171,670	
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Budget Changes			
Department-Wide			
23 Reduce Various Operating Budgets		(\$356,525)	R
Recommend that inflationary increases be eliminated and budgets be reduced across various line items.		(\$411,959)	NR
Justice Training Academy			
24 Program Assistant V		\$33,621	R
Recommendation that funding be provided for one new Program Assistant V position to support the law enforcement in-service training program.		1.00	
Legal Services			
25 Receipt Supported Positions			
New staff positions to be funded with receipts from agencies that receive legal services from the Department.			
Accounting Tech III - Department of Public Instruction \$51,064			
Paralegal II - Administrative Office of the Courts \$61,301			
SBI			
26 Forensic Firearms Analysts		\$133,784	R
Funding for two non-sworn Forensic Firearm Analysts. These positions are approved in an effort to expedite the processing of firearm and ballistic evidence analysis, which will lead to faster conviction rates for violent crimes. Agency seized and forfeited asset funds should be used to pay for any nonrecurring costs associated with the establishment of these positions. These positions are to be located in the following laboratories:		2.00	
Raleigh Crime Laboratory 1.0			
Asheville Crime Laboratory 1.0			
27 SBI Crime Laboratory Equipment		\$174,321	NR
Funding is provided for the purchase of new and replacement laboratory equipment.			
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Budget Changes		(\$189,120)	R
		(\$237,638)	NR
Total Position Changes		3.00	
Revised Total Budget		\$91,744,912	
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Juvenile Justice & Delinquency Prevention

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09
	\$139,556,104

Budget Changes

Administrative Services

28 Reduce Budget for Board & Non-Employee Travel	(\$14,000)	R
The Governor recommends reducing the Board & Non-Employee Transportation and Subsistence budget based on prior year expenditures.		

Department-Wide

29 Reduce Various Operating Budgets	(\$725,954)	R
The Governor recommends that inflationary increases be eliminated and budgets be reduced across various line items.		
	(\$25,000)	NR

Detention Services

30 New Psychologist Positions	\$367,979	R
The Governor recommends one Psychologist position at each of the state's nine Detention Centers to provide mental health services for youth in detention.		
	\$8,910	NR
	9.00	

31 Additional Detention Staffing	\$309,743	R
Expand the staff at Detention Centers to address the staffing needs of the facilities that are consistently over capacity.		
	\$2,437	NR
	20.00	
15 Youth Counselor Technicians		
3 Youth Monitor Supervisors		
2 Cooks		

32 New Nurse Position	\$36,298	R
The Governor recommends adding a nurse position at the Cumberland Juvenile Detention Center. This Center has the largest population of the state's nine centers. The services are currently provided through a contract, but it has been difficult to recruit and retain contractual staff.		
	\$990	NR
	1.00	

Intervention/Prevention

33 Restore JCPC Funding	\$22,652,860	R
The Governor recommends the funding be restored for the Juvenile Crime Prevention Councils (JCPC). The appropriation for the JCPCs was eliminated for FY 2008-09 pending the findings of a Continuation Review.		

34 Expand JCPC County Allocation	\$500,000	R
Increase funding for the JCPC County formula allocation which goes to all 100 counties.		

Special Initiatives

35 Eliminate funds for the Eckerd EFFORT project	(\$2,695,662)	R
Due to administrative barriers to implement the project as envisioned, funding for the Eckerd EFFORT project is eliminated.		

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36 Operating funds for the Macon County MPGH	\$600,000	R
Provide funds for recurring operating funds for the state-owned Macon County Multipurpose Group Home. Non-recurring start-up funds were provided in the 2007 Session.		
Support Our Students		
37 Reduce Administrative Contracts for SOS	(\$200,000)	R
Reduce the amount budgeted for miscellaneous contracts for the evaluation of the Support Our Students (SOS) program.		
Youth Development Centers		
38 Reduce funding for Triad YDC	(\$624,321)	NR
Reduce continuation budget funding for Triad Youth Development Center because of construction delays.		
<hr/>		
Budget Changes	\$20,831,264	R
	(\$636,984)	NR
Total Position Changes	30.00	
Revised Total Budget	\$159,750,384	
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Correction

GENERAL FUND

	FY 08-09
Total Budget Approved 2007 Session	\$1,226,627,581

Budget Changes

Alcoholism and Chemical Dependency Programs

39 Substance Abuse Treatment Program for Females	\$1,543,150	R
Provides funding for a 50-bed substance abuse treatment program for female parolees and probationers. Both 28-day and 90-day programs would be provided for approximately 300-360 females per year. Currently, the department does not have a treatment program for this population, although demand is estimated to be 4,725 parolees and probationers per year. The program would be located at the Black Mountain Correctional Center for Women, which will be vacated as the current inmates are relocated to a new facility.	\$348,218	NR
	35.00	

40 Inmate Drug and Alcohol Addiction Treatment	\$239,805	R
Increases capacity for treating drug and alcohol addiction by providing ten additional contract beds to house male inmates who are being provided intensive treatment for drug and alcohol abuse and addiction. These funds shall be used solely to house and treat these inmates and to maximize the treatment facility's capability to provide intensive treatment to chemically dependent male inmates.		

Community Corrections

41 Reserve for Probation Supervision	\$2,000,000	R
Establishes a reserve fund to address critical resource needs in Probation and Parole Field Services. The designation of funds is pending the findings of a performance review by the National Institute of Corrections. Of these funds, \$500,000 is non-recurring and non-reverting.	\$500,000	NR

42 Probation Officer Interface to Court Information		
Appropriates \$140,000 NR to develop an interface between the case management functions of the Offender Population Unified System (OPUS) of the Department of Correction and the Automated Court Information System. This interface will provide probation parole officers with access to up-to-the-minute information on arrests and pending charges of offenders on probation. These funds are non-recurring and non-reverting.	\$140,000	NR

43 Restore CJPP Funding	\$9,153,134	R
The Governor recommends the funding be restored for the Criminal Justice Partnership Program (CJPP). The appropriation for the CJPP was eliminated for FY 2008-09 pending the findings of a Continuation Review.		

44 Criminal Justice Partnership Expansion	\$257,729	R
Increases the appropriation to the State County Criminal Justice Partnership Program by \$257,729. These additional funds will be allocated based on the program's existing funding formula.		

45 Increase Women at Risk Pass-Through		
Increases the current \$350,000 recurring appropriation by \$100,000 NR. This program provides community-based treatment for females probationers. This appropriation also expands services in 10 Western counties, including Buncombe, Henderson, McDowell, Rutherford, Yancey, Madison, Haywood, Jackson, Transylvania, and Polk.	\$100,000	NR
46 Increase Summit House Pass-Through		
Increases the current \$1,231,293 appropriation to Summit House by \$100,000 NR. This program provides housing and support services to women on probation and their children.	\$100,000	NR
Custody and Security		
47 Reduce Budget for Building/Acquisition Costs	(\$175,000)	R
Reduces the budget for building/acquisition costs based on prior year expenditures.	(\$125,000)	NR
Department Management		
48 Support Positions for Construction Projects	\$1,143,091	R
Provides funding for five engineers and one architect to support current and future design and construction work related to department facilities. These positions are necessary to maximize the benefits of the Inmate Construction Program and realize a cost savings of 28% compared to using outside contractors.	\$543,491	NR
	6.00	
Department-Wide		
49 Reduce Various Operating Budgets	(\$1,300,000)	R
Reduces the following FY 2008-09 inflationary increases and budgets throughout the Department of Correction: Short Term Disability Payments(\$500,000 R), Building/Office Leases (\$300,000 R), Energy - Natural Gas/Propane (\$500,000 R, \$500,000 NR), Longevity (\$250,000 NR), and Equipment (\$500,000 NR).	(\$1,250,000)	NR
50 Increase Federal Alien Assistance Receipts	(\$1,549,375)	R
The State Criminal Alien Assistance Program (SCAAP) provides federal funds to states to offset the cost of incarcerating undocumented aliens, over \$3.8 million annually for North Carolina. The federal budget indicates that this assistance will increase by \$1,549,375 for the coming year. This item budgets those increased receipts, offsetting the continuation budget for the Department.		
Prison Health Services		
51 Reduce Various Medical Budgets	(\$6,639,426)	R
Reduces various medical budget items within the Division of Prisons. This item eliminates the FY 2008-09 inflationary increases and reduces budgets for Prescription Drugs (\$1,800,000 R, \$100,000 NR), Medical Contractual Employees (\$1,500,000 R), Hospital Provided Medical Services (\$1,150,000 R, \$2,600,000 NR) and Other Provided Medical Services (\$2,189,426 R, \$300,000 NR).	(\$3,000,000)	NR
52 Increase Medical Recoupment Receipts	(\$2,150,000)	R
Increases the budgeted receipts for medical recoupment. These receipts have been over-collected for the last two fiscal years.		

Prisons

53 Our Children's Place Administration

Provides funds for a contractual position to oversee services to incarcerated mothers and their children during the period of their incarceration.

\$50,000 NR

54 Domestic Violence Rehabilitation Reserve

Should HB 44, or a substantially similar piece of legislation changing the definition of repeat violation of a protective order, become law, this reserve provides funds for expansion of the Division of Prisons' rehabilitation program for offenders with a history of domestic violence offenses.

\$100,000 R

Reserves

55 North Carolina GangNet

Provides funds to Durham County to enhance North Carolina GangNet, an Internet-based law enforcement intelligence sharing database that contains information about known gang members. This database has been available in Durham County for several years and is now being expanded statewide through federal funds. Through this appropriation, GangNet will be enhanced through the incorporation of gang data currently collected in the Offender Population Unified System (OPUS), which is maintained by the Department of Correction.

\$260,000 NR

Budget Changes

\$2,623,108 R

(\$2,333,291) NR

Total Position Changes

41.00

Revised Total Budget

\$1,226,917,398

Crime Control and Public Safety

GENERAL FUND

Total Budget Approved 2007 Session **FY 08-09**
\$41,489,037

Budget Changes

Administration

56 Law Enforcement Support Services

Funding for warehouse rental costs. This program provides federal surplus equipment to local law enforcement free of charge. \$160,000 NR

Department - Wide

57 Reduce Various Operating Budgets

Governor's recommendation that the following FY 2008-09 budgets be reduced throughout the department: Administrative Services (\$25,000NR) Miscellaneous Contractual Services (\$98,100R), Rent Building/Office (\$45,000NR) Rent/Lease Other Data Processing Equipment (\$46,900R), Lodging In-State (\$15,482R), Other Employee Educational Expense (\$50,421NR) and General Office Supplies (\$20,000NR) (\$160,482) R
(\$140,421) NR

Emergency Management

58 Regional Response Teams

There are currently seven Hazardous Materials (HAZMAT) Regional Response Teams in the state. These HAZMAT teams respond to incidents such as the explosion and fire at the EQ chemical storage facility in Apex. To ensure adequate statewide coverage for hazardous material emergencies, the Governor's HAZMAT Task Force recommended in its December 2006 report that funding be provided to support the operating needs and equipment replacement for the HAZMAT teams. \$200,000 NR

Governor's Crime Commission

59 Crime Commission Study

Funds are provided for a contract to study the legal, systematic, and organizational impact of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include persons 16 and 17 years of age. \$200,000 NR

60 Illegal Immigration Project

Funding to the Governor's Crime Commission to contract with the North Carolina Sheriffs' Association for immigration enforcement services. This funding will be used for technical assistance and training associated with immigration enforcement. \$600,000 NR

61 Reserve for Sheriff Department Grants

Should legislation become law that establishes new sex offender registration requirements, funds are appropriated for a reserve for grants to sheriffs' departments. The Governor's Crime Commission shall award grants of up to \$25,000 to sheriffs' offices to assist with the enforcement of the State's sex offender laws. \$250,000 NR

National Guard

62 Tarheel Challenge Academy

Governor's recommendation: The Tarheel Challenge is designed to give highschool dropouts a second chance at getting an education, with 70% of participants currently graduating from the program with their GED. It is recommended that funding be provided to increase the number of Tarheel Challenge graduates from 220 to 250 annually. This request also includes federal funds, which the state will receive as a result of the increase in program graduates.

\$193,000 NR

63 National Guard Kids on Guard Program

funding to support Operation Kids on Guard, a non profit program created specifically for children of the North Carolina National Guard as a way to assist children in coping with deployment fears and understanding why their parents are away from home.

\$200,000 NR

64 Continuation Review - Tarheel Challenge Academy

Tarheel Challenge Program funding is provided for the Tarheel Challenge Program for FY 2008-09 only. Restoration of recurring funds is subject to the findings of the continuation review.

(\$1,100,000) R

\$1,100,000 NR

Victim Compensation Services

65 Funding for the Rape Victim Assistance Program

Funding to support the Rape Victim Assistance Program. This appropriation will allow for the expansion of the program's victim eligibility criteria allowing the program to pay bill co-pays for rape victims that have a collateral source of payment and 100 percent of forensic exam costs for rape victims that have no collateral source of payment.

\$1,078,078 R

Budget Changes

(\$182,404) R

\$2,762,579 NR

Total Position Changes

Revised Total Budget

\$44,069,212

**GENERAL
GOVERNMENT
Section J**

Administration

GENERAL FUND

Total Budget Approved 2007 Session

FY 08-09
\$70,959,534

Budget Changes

1264 Agency for Public Telecommunications

1 Camera and Recording Equipment

The use of \$70,000 in receipts are authorized to fund a video production package that provides high definition (HDTV) capabilities.

1421 Facilities Management

2 Energy Reserve Savings

(\$203,000) R

Annual Energy Savings from 2007 Energy Reserve in the amount of \$203,000.

1511 Purchasing and Contracts

3 Personnel Reductions

(\$92,739) R

Eliminates the salaries and related fringe benefits of one vacant State Procurement Specialist III (\$47,352 - 4108-0404-0006-740) and one vacant State Procurement Specialist II (\$45,387 - 4108-0405-0006-704).

-2.00

531211	Salaries	(92,739)
531511	Soc. Security	(7,095)
531521	Retirement	(7,261)
531561	Medical Ins.	(8,314)

1623 State Capital Police

4 Additional State Capitol Police Officers

\$100,000 R

Provides funding for two new positions to increase police visibility through bike and foot patrols on the streets and in the parking decks in and around the government complex.

2.00

Recurring		FY 2008-09
531231	Salaries	\$ 62,400
531411	Overtime Pay	\$ 5,000
531411001	Straight-Time OT	\$ 5,000
531511	Social Security	\$ 5,539
531531	Retirement	\$ 9,289
531561	Medical Insurance	\$ 8,314
533150	Sec. & Safety Supplies	\$ 2,000
533510	Clothing & Uniforms	\$ 2,458
Total Recurring		\$100,000

1734 Rape Crisis Program

5 Sexual Assault/Rape Crisis Funds

\$1,000,000 R

Provides \$1 million in recurring funding to the Sexual Assault and Rape Crisis Center Fund for sexual assault and rape crisis services.

1771 Veterans Affairs

6 Scholarship for Children of War Veterans

\$326,500 R

Funding is provided to increase educational scholarships for children of veterans killed or disabled during wartime. Authorizes the Department of Administration to increase the requirement receipts for the Scholarships for Children of War Veterans in the amount of \$690,000 from the Escheats Fund. The total amount for the Scholarship Program for FY 2008-09 is \$9,551,794, which includes \$6,918,633 from Escheats and \$2,633,161 from the General Fund.

1782 Domestic Violence Center

7 Domestic Violence Center Fund

The divorce filing fee is raised from \$55 to \$75 and the additional \$20 is dedicated to the Domestic Violence Center Fund for domestic violence shelters.

1810 State Ethics Commission

8 Ethics Commission

\$123,034 R

\$233,000 NR

1.00

Provides funding for one Attorney position (\$82,960) and associated recurring expenses (\$7,675) and \$230,000 nonrecurring for contractual services to reduce the backlog of work. Additional funds are provided for the purchase of law books (\$10,000 recurring) and a legal research tool (\$5,400 recurring).

Recurring		FY 2008-09
531231	Salary	\$ 82,960
531511	Social Security	\$ 6,346
531531	Retirement	\$ 6,496
531561	Medical Insurance	\$ 4,157
532XXX	Travel/Telecom/Equip	\$ 5,675
532140	Other IT Services	\$ 5,400
532850	Print Law Books	\$ 10,000
533XXX	Supplies	\$ 2,000

Non-Recurring		FY 2008-09
53XXXX	Contractual Services	\$230,000
534XXX	Office Furniture/Equip	\$ 3,000

9 Lease and Moving Expenses

\$60,000 R

\$5,000 NR

Funding is provided for lease and moving expenses associated with relocating the State Ethics Commission from its present location in the Administration Building.

Administration

10 Operating Budget Reductions	(\$6,655)	R
Recurring reduction of \$6,655 in the following expenditure accounts:		
532181 Seminars	(4,195)	
532714 In-State Grnd Trans.	(1,960)	
534534 PC/Printer Equip.	(500)	
1861 Commission of Indian Affairs		
11 NC Indian Economic Development Initiative, Inc.		
The Governor recommends funding to continue the work of the North Carolina Indian Economic Development Initiative, Inc.	\$135,000	NR
7218 Mail Service Center		
12 Letter Sorting Machine		
Provides funds to replace a 15-year-old mail-sorting machine.	\$300,877	NR
7251 State Parking System		
13 Continuation Review - State Parking Office		
Changes the funding for the State Parking Office to non-recurring. Restoration of FY 2009-10 funds is subject to findings of the Continuation Review. State Parking Office receipts for FY 2008-09 total \$1,618,418.		
Department-wide		
14 Decrease Operating Budget	(\$63,184)	R
Reduces operating support for Managed LAN Service (532822).		

15 Decrease Operating Budget

(\$499,171) R

The Governor recommends a recurring reduction of \$499,171 in the operating budget.

Department-wide:

1111	531649	Governor's Pages	(5,000)
	534534	PC/Printer Equip.	(2,000)
1121	534534	PC/Printer Equip.	(9,000)
1122	534534	PC/Printer Equip.	(1,200)
1123	532170	Admin. Services	(20,000)
	532199	Misc. Contr. Services	(40,000)
	532731	Non-Empl. Transp.	(26,000)
	532813	Teleconf. Charges	(11,000)
	534534	PC/Printer Equip.	(1,000)
1230	534534	PC/Printer Equip.	(1,000)
1241	532822	Managed LAN Serv.	(32,917)
	534534	PC/Printer Equip.	(10,000)
1264	534534	PC/Printer Equip.	(10,000)
1311	532821	Computer/DP Serv	(33,833)
	532822	Man. LAN Service	(42,291)
1411	532811	Telephone Serv.	(10,000)
	534534	PC/Printer Equip.	(44,000)
1412	534534	PC/Printer Equip.	(12,000)
1421	534534	PC/Printer Equip.	(24,000)
1466	535900	Other Expenses	(45,000)
1511	532170	Admin. Services	(18,000)
	532822	Managed LAN Serv.	(5,000)
	533110	Office Supplies	(5,000)
	533120	DP Supplies	(19,000)
	534534	PC/Printer Equip.	(23,000)
1731	534534	PC/Printer Equip.	(1,500)
1732	534534	PC/Printer Equip.	(2,500)
1734	534534	PC/Printer Equip.	(1,500)
1742	534534	PC/Printer Equip.	(1,500)
1761	534534	PC/Printer Equip.	(1,400)
1771	534534	PC/Printer Equip.	(5,000)
1861	534534	PC/Printer Equip.	(2,500)

16 Eliminate Vacant Positions

(\$141,614) R

Four vacant positions are eliminated:

-4.00

Title	Position Number	Salary
Tech. Support Technician	4119-0000-0007-479	\$26,247
Housekeeping Supervisor	4151-0304-0008-422	\$29,317
Gen. Utility Worker	4151-0400-0009-416	\$25,287
Bldg & Environmental Sup.	4151-1100-0013-024	\$27,380

531211	Salaries	(108,231)
531511	Soc. Security	(8,280)
531521	Retirement	(8,475)
531561	Medical Ins.	(16,628)

Budget Changes	\$603,171	R
	\$673,877	NR
Total Position Changes		-3.00
Revised Total Budget	\$72,236,582	

Auditor

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09	
	\$12,746,479	
<hr/>		
Budget Changes		
1110 Administration		
1 ITS Hosting Services	\$82,128	R
Funding is provided for ITS hosting services for the non-governmental audit project approved in the previous fiscal year.		
Department-wide		
2 Budget Over-realized Receipts	(\$366,066)	R
Budgets over-realized receipts in the amount of \$366,066.		
<hr/>		
Budget Changes	(\$283,938)	R
Total Position Changes		
Revised Total Budget	\$12,462,541	

Auditor

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Cultural Resources

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09
	\$71,881,424

Budget Changes

1120 Administrative Services

1 Information Technology Consolidation	\$224,800	R
Funding is provided to support incremental costs for statewide infrastructure consolidation.		

1210 Archives and History

2 African American Heritage Commission	\$32,500	R
Funding is provided to establish an African American Heritage Commission to increase awareness across the state about preservation of African American history and culture.		

Recurring:

532199 Misc. Contractual Services	\$17,500	
532714 Trans. Grnd In-State	\$ 3,500	
532721 Lodging In-State	\$ 2,600	
532724 Meals In-State	\$ 1,500	
533110 General Office Supplies	\$ 1,500	
532811 Telephone Service	\$ 900	
532850 Printing	\$ 4,000	
532840 Post., Freight & Delivery	\$ 1,000	

3 CSS Neuse Funds	\$75,000	NR
Appropriates \$75,000 to provide adequate climate-controlled housing for the CSS Neuse, a Civil War-era ironclad gunboat. The relic is a designated historic site in the Division of Archives and History, and needs proper storage and preservation to prevent its loss.		

4 International Civil Rights Museum	\$500,000	NR
Appropriates \$500,000 for capital costs of a civil rights museum. The Department will pass these funds to the nonprofit organization Sit-In Movement, Inc.		

1241 State Historic Sites

5 Bentonville Battlefield Fund	
Receipts generated from the Bentonville Historic Site will be transferred to the Bentonville Battlefield Fund.	

1260 Office of State Archaeology

6 Queen Anne's Revenge Archaeology Project

Increases operational support for the Queen Anne's Revenge archaeological project. These funds will sustain major recovery efforts, conservation, and analysis of artifacts and images from the 18th century shipwreck.

\$150,000 NR

1320 Museum of Art

7 Art Museum Transition

Funding is provided to bridge the gap between declining foundation revenues and increased operating costs related to expansion and renovation at the Museum of Art.

\$250,000 NR

1330 NC Arts Council

8 Arts Council Basic Grants

Provides nonrecurring funds for the competitive Basic Grants Program in the Arts Council to be awarded through the formal application process.

\$175,000 NR

9 cARTwheels

Appropriates funds to extend the arts components of the cARTwheels program. The program will provide exposure to professional performing arts for students in the public schools. These funds are appropriated to the NC Arts Council, and will be awarded based on a competitive application process to emphasize geographic distribution, diversity, and variety of programs, such as dance, opera, music, and theater. At least 25% of the total grant funds will be awarded to professional performing arts groups that have not received a grant from the cARTwheels program.

\$1,000,000 NR

10 Grassroots Arts Program Funds

Appropriates \$500,000 to the Grassroots Arts Program in the Arts Council.

\$500,000 NR

11 Horn in the West Operational Support

Appropriates \$25,000 to the Southern Appalachian Historical Association, Inc., for operational support for the outdoor drama Horn in the West.

\$25,000 NR

12 Matching Funds for John Coltrane Music Hall

Funds are provided to the High Point Area Arts Council, Inc. to construct and equip the John Coltrane Music Hall at the Community Arts Center in High Point. Funds are contingent on the Council raising an equal amount of funds from local sources.

\$75,000 NR

<p>13 Penderlea Homestead Museum Provides funds to the Department of Cultural Resources in the sum of \$25,000 to be allocated to Penderlea Homestead Museum, Inc. to preserve the agricultural history of Pender County's depression-era heritage.</p>	<p>\$25,000 NR</p>
<p>1340 North Carolina Symphony</p>	
<p>14 Increase Appropriation for North Carolina Symphony Funding is provided to the Symphony for operating support.</p>	<p>\$450,000 NR</p>
<p>1480 Statewide Programs and Grants</p>	
<p>15 Aid to Public Libraries Increases the aid to public libraries by \$1 million non-recurring. These funds will be distributed based on the existing formula for county library grants. The funds may be used for the purchase of books or for other operational expenses.</p>	<p>\$1,000,000 NR</p>

Department-wide

16 Decrease Operating Budget

(\$696,933) R

Recurring reduction of \$696,933 in the operating budget.

Department-wide:

1110	532721	Lodging- In-State	(1,800)
	532840	Post., Frght & Delivery	(2,700)
	532850	Print., Bind & Duplicate	(3,600)
1120	532390	Repairs - Other	(900)
	532490	Maint. Agree. - Other	(7,555)
	532721	Lodging - In-State	(1,000)
	532942	Oth Empl. Educ. Exp.	(3,600)
	533120	Data Process. Supplies	(2,700)
	533900	Oth Mater./Supplies	(1,800)
	534539	Other Equipment	(2,700)
1210	532XXX	Purchased Services	(20,000)
	532199	Misc. Contract. Serv.	(1,000)
	532390	Repairs - Other	(1,000)
	532721	Lodging - In-State	(1,500)
	532811	Telephone Service	(4,070)
	533XXX	Supplies	(2,000)
	533110	General Office Supplies	(1,000)
	533900	Oth. Mater./Supplies	(588)
1220	532XXX	Purchased Services	(5,000)
	532850	Print., Bind & Duplicate	(5,133)
	533110	General Office Supplies	(1,000)
1230	532390	Repairs - Other	(1,000)
	532490	Maint. Agree. - Other	(1,500)
	532714	Trans.-Grnd-In-State	(2,000)
	532715	Trans.-Grnd-Out-Of-State	(1,000)
	532721	Lodging-In-State	(500)
	532727	Misc.-In-State	(2,500)
	532728	Misc. Sub-Out of State US	(1,000)
	532942	Oth Empl. Edu. Ex	(2,000)
	532840	Post., Frght & Delivery	(1,039)
	532850	Print., Bind & Duplicate	(500)
	533XXX	Supplies	(10,000)
	533110	General Office Supplies	(1,795)
	533990	Oth Mater./Supplies	(3,205)
	534511	Furniture - Office	(1,249)
	534539	Other Equipment	(13,631)
1241	532199	Misc. Contract. Serv.	(16,902)
	532390	Repairs - Other	(35,797)
	533900	Other Mater./Supplies	(8,679)
	534539	Other Equipment	(4,702)
	534541	Motor Vehicles	(3,652)
	534549	Other Motorized Vehicles	(4,033)
	534610	Art & Artifacts	(3,135)
1242	532310	Repairs - Buildings	(5,000)
	532333	Repairs - Oth Equip.	(2,000)
	533900	Oth Mater./Supplies	(12,517)
	534511	Furniture - Office	(936)
	534539	Other Equipment	(4,000)
1243	533900	Oth Mater./Supplies	(3,821)
1245	534XXX	Prop., Plant, Equip	(10,000)

Cultural Resources

	534539	Other Equipment	(10,926)
1250	532199	Misc. Contract. Serv.	(3,000)
	532714	Trans - Grnd In State	(3,000)
	533900	Oth Mater./Supplies	(3,060)
1260	532210	Energy Serv-Electrical	(3,500)
	532220	Energy Serv-Nat. Gas	(627)
	532230	Energy Serv-Water & Sewer	(180)
	532390	Repairs	(290)
	532490	Maint. Agree. - Other	(1,000)
	532715	Trans.-Out-of-State	(189)
	532811	Telephone Service	(2,000)
	533900	Oth Mater./Supplies	(631)
1290	532210	Energ. Serv - Electrical	(275)
	532390	Repairs - Other	(214)
	532721	Lodging -In-State	(500)
	532727	Misc.- In-State	(150)
	532811	Telephone Service	(600)
	532840	Post., Frght & Delivery	(150)
	533900	Oth Mater./Supplies	(1,000)
1320	532199	Misc. Contract. Serv.	(7,500)
	532714	Trans-Grnd In State	(3,000)
	532715	Trans Grnd-Out-of-State	(1,000)
	532721	Lodging - In-State	(1,000)
	532811	Telephone Service	(4,000)
	532840	Post., Frght & Delivery	(3,000)
	534610	Art & Artifacts	(21,450)
1330	534511	Office Furniture	(4,167)
	536932	Vagabond School of Drama	(465)
	536948	Lost Colony	(2,488)
	536971	NC Shakespeare Festival	(2,488)
	536990	Basic Grants Program	(41,813)
	536996	Grassroots Arts Program	(29,255)
1340	532490	Maint. Agree. - Other	(100)
	532811	Telephone Service	(300)
	532840	Post., Frght & Delivery	(500)
	533110	General Office Supplies	(100)
	536936	NC Symphony Soc. Inc.	(11,210)
1410	534630	Library & Learn. Resour. Coll.	(49,351)
1480	534631	Library & Learn. Resour. Coll.	(161,355)
	536963	Quiz Bowl Grant	(3,000)
1500	534610	Art & Artifacts	(63,116)
1992	537140	Maritime Museum	(1,500)
	537131	CSS Neuse	(1,000)
	537112	Museum of Art	(3,000)
	537137	Oteen Center	(2,145)
	537134	CHB Memorial	(500)
1584	538182	Trns to Spec Rev Fund	(18,180)

Budget Changes	(\$439,633)	R
	\$4,225,000	NR
Total Position Changes		
Revised Total Budget	\$75,666,791	

Cultural Resources - Roanoke Island Commission

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09	
	\$2,020,023	
Budget Changes		
Department-wide		
1 Energy Reserve Savings	(\$15,000)	R
Annual Energy Savings from 2007 Energy Reserve in the amount of \$15,000.		
Budget Changes	(\$15,000)	R
Total Position Changes		
Revised Total Budget	\$2,005,023	

General Assembly

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09
	\$55,740,786

Budget Changes	
1 Decrease Operating Budget	(\$636,000) R
Recurring reduction of \$636,000 in agency reserves.	
2 Reduce Number of Budgeted Session Weeks	(\$245,000) NR
Reduces the number of budgeted sessions from 31 to 30 weeks.	

Budget Changes	(\$636,000) R
	(\$245,000) NR
Total Position Changes	
Revised Total Budget	\$54,859,786

Total Budget Approved 2007 Session	FY 08-09
	\$6,300,587

Budget Changes

Department-wide

1 Decrease Operating Budget (\$84,205) R

Recurring reduction of \$84,205 in the operating budget of the following accounts:

1110 Administration		
532430	Maint. Agreement-Equip.	(2,000)
532524	Rent/Lease Gen Office E	(2,000)
532711	Transp. Air-In-State	(2,000)
532712	Transp. Air-Out-Of State	(1,000)
532811	Telephone Service	(2,000)
532814	Cellular Phone Service	(3,503)
532930	Registration Fees	(4,000)
532900	Oth. Materials & Supplies	(4,000)
533XXX	Supplies	(10,000)
534XXX	Property, Plant, Equip	(5,000)
534534	PC/Printer Equipment	(8,000)
538156	Transfer to ITS	(25,202)
1200 Office of Citizens' Affairs		
532840	Post., Frght & Delivery	(2,000)
532850	Print., Bind & Duplicate	(1,000)
534XXX	Purchased Services	(10,000)
533XXX	Supplies	(500)
1230 Educational Programs		
532XXX	Purchased Services	(2,000)

Budget Changes	(\$84,205) R
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Total Position Changes

Revised Total Budget **\$6,216,382**

Housing Finance Agency

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09	
	\$9,608,417	
Budget Changes		
Home Protection Program		
1 Home Protection Program	\$3,000,000	R
Provides recurring funds to expand the Home Protection Program from 61 counties to statewide.		
Housing Trust Fund		
2 Housing Assistance for Persons with Disabilities	\$7,000,000	NR
Provides funding to the North Carolina Housing Trust Fund for the financing of additional independent- and supportive-living apartments for persons with disabilities. The apartments shall be affordable to those with incomes at the Supplemental Security income (SSI) level. A description of this item is located in the Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services Section of this report.		
3 North Carolina Housing Trust Fund	\$2,000,000	R
Appropriates additional recurring funds to support the Housing Trust Fund. This fund seeks to provide decent, safe, and affordable housing for North Carolina citizens with low to moderate incomes. The trust fund currently expends \$8 million per year; this expansion will increase that expenditure to \$10 million recurring.		
Budget Changes	\$5,000,000	R
	\$7,000,000	NR
Total Position Changes		
Revised Total Budget	\$21,608,417	

Insurance

GENERAL FUND

Total Budget Approved 2007 Session

FY 08-09
\$30,936,704

Budget Changes

1200 Company Services Group

1 Insurance Examiner II

\$166,080 R
\$12,000 NR
2.00

Funds are provided for two Insurance Examiner II positions (\$63,584) for the Financial Evaluation Division. These positions will provide regulatory oversight emphasizing licensing and financial solvency for approximately 140 Professional Employer Organizations (PEO) that employ thousands of North Carolina residents.

Recurring	FY 2008-09
531211 Salaries	\$127,168
531511 Social Security	\$ 9,728
531521 Retirement	\$ 9,957
531561 Medical Insurance	\$ 8,366
532512 Rent/Lease-Bld/Off.	\$ 4,200
532712 Trans Air-Out State	\$ 800
532714 Trans.-grnd in-state	\$ 600
532715 Trans.-grnd out-st.	\$ 100
532721 Lodging in-state	\$ 400
532722 Lodging out-of-state	\$ 600
532724 Meals in-state	\$ 200
532725 Meals out-of-state	\$ 200
532811 Telephone Service	\$ 800
532817 Internet Serv Chrg	\$ 960
533110 General Office Supp	\$ 1,000
533120 Data Processing Sup.	\$ 1,000
Total Recurring	\$166,080
Non-Recurring	
534534 PC/Printer Equipment	\$ 4,000
534511 Office Furniture	\$ 8,000
Total Non-Recurring	\$ 12,000

1400 Public Services

2 Insurance Regulatory Analyst I

\$297,412 R
 \$8,000 NR
 4.00

Funding is provided for additional Insurance Regulatory Analysts who travel to company locations in order to audit, analyze and review the records of agent companies that have complaints filed against them.

Recurring		FY 2008-09
531211	Salaries	\$200,000
531511	Social Security	\$ 15,300
531521	Retirement	\$ 15,660
531561	Medical Insurance	\$ 16,732
532712	Trans Air Out State	\$ 1,600
532714	Trans Grnd In State	\$ 20,000
532715	Trans Grnd Out State	\$ 200
532721	Lodging In State	\$ 12,000
532722	Lodging Out State	\$ 2,000
532724	Meals In State	\$ 6,000
532725	Meals Out of State	\$ 400
532811	Telephone Service	\$ 1,600
532817	Internet Serv Charge	\$ 1,920
533110	Office Supplies	\$ 2,000
533120	Data Processing Supp	\$ 2,000
	Total Recurring	\$297,412

Non-Recurring		
534534	PC/Printer Equipment	\$ 8,000

1500 Office of the State Fire Marshal

3 Training and Inspection Travel

\$150,000 R

Funding is provided for training and travel related to state and federal mandates and the inspection of fire departments in the 1,512 fire districts requiring inspections every five years.

Budget Changes

\$613,492 R

\$20,000 NR

Total Position Changes

6.00

Revised Total Budget

\$31,570,196

Insurance - Volunteer Safety Workers' Compensat

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09
	\$4,500,000

Budget Changes	
1900 Reserves and Transfers	
1 Volunteer Safety Workers' Compensation Fund	
Reduces the General Fund appropriation to the Volunteer Safety Workers' Compensation Fund on a non-recurring basis. This reduction will not affect the solvency of the fund.	(\$1,150,000) NR

Budget Changes	(\$1,150,000) NR
Total Position Changes	
Revised Total Budget	\$3,350,000

Lieutenant Governor

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09
	\$915,109

Budget Changes

1 NO LEGISLATIVE ACTION REPORTED.

Budget Changes

Total Position Changes

Revised Total Budget **\$915,109**

Office of Administrative Hearings

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09	
	\$3,521,735	
Budget Changes		
1100 Administration		
1 Automated Rules Tracking System	\$49,140	R
Funding is provided to replace the current Rules Automated Tracking System with a new system that enables increased public interaction and improved interagency communication processes.	\$253,400	NR
2 Information Technology Consolidation	\$42,700	R
Funding is provided to support incremental costs for statewide infrastructure consolidation.		
Department-wide		
3 Decrease Operating Budget	(\$31,696)	R
Recurring reduction of \$31,696 in the operating budget for rent/lease.		
Budget Changes	\$60,144	R
	\$253,400	NR
Total Position Changes		
Revised Total Budget	\$3,835,279	

Revenue

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09	\$85,330,611
Budget Changes		
1605 Tax Information Management System		
1 Replace Current Integrated Tax Administration System (ITAS)		
Funding is provided for a new Tax Information Management System (TIMS), which will enable taxpayers to interact electronically with the Department of Revenue. For FY 2008-2009, \$25,000,000 is to be funded from fees collected through Project Collect Tax.		
1660 Examination and Collection		
2 Budget Project Collect Fees	(\$1,363,567)	R
Transfers twenty-nine positions from appropriated to receipts-supported to generate a recurring reduction of \$1,363,567 in the operating budget.		
	-29.00	
Department-wide		
3 Decrease Operating Budget	(\$52,297)	R
Recurring reduction of \$52,297 in the operating budget of the following accounts:		
531572 Unemp Comp Pmts	\$ 3,131	
531631 Workers Comp Med Pmt	\$49,166	
Total Recurring	\$52,297	
Budget Changes	(\$1,415,864)	R
Total Position Changes	-29.00	
Revised Total Budget	\$83,914,747	

Total Budget Approved 2007 Session

FY 08-09
\$10,743,041

Budget Changes

1110 General Administration

1 Accountant I position

\$66,178 R
\$3,000 NR
1.00

Provides funding for one Accountant I position (\$52,819) to support the budget section in the accounting and purchasing functions.

Recurring		FY 2008-09
531211	Salaries	\$52,819
531511	Social Security	\$ 4,041
531521	Retirement	\$ 4,136
531561	Medical Insurance	\$ 4,183
Total Recurring		\$66,178

Non-Recurring		FY 2008-09
532XXX	Purchased Services	\$ 500
533XXX	Supplies	\$ 1,500
534XXX	Property, Plant, Equip	\$ 2,000
Total Non-Recurring		\$ 3,000

1150 Lobbyist Registration

2 Lobbyist Registration Funds

\$37,653 R
\$80,547 NR
1.00

Funds are provided for one Office Assistant V (\$26,444) to provide manpower due to the enactment and amendment of the new lobbying law as recognized by OSBM in its January 2008 management study of the Lobbyist Division. An additional \$75,000 in nonrecurring funds is provided for contractual services to reduce the backlog of work.

Recurring		FY 2008-09
531211	Salaries	\$26,444
531511	Social Security	\$ 2,023
531521	Retirement	\$ 2,071
531561	Medical Insurance	\$ 4,157
532714	Trans.-grnd in-state	\$ 4,368
533110	General Office Supp	\$ 1,200
532811	Telephone Service	\$ 150
532430	Equip. Maint.	\$ 1,608
Total Recurring		\$37,653

Non-Recurring		
534534	PC/Printer Equipment	\$ 3,000
534511	Office Furniture	\$ 500
534521	Office Equipment	\$ 2,047
53XXXX	Misc. Contract Serv	\$75,000
Total Non-Recurring		\$80,547

1210 Corporations

3 Processing Asst V

\$35,845 R
\$7,047 NR
1.00

This position will assist in combining the cash management functions of the following units: corporations (both annual report and regular document filings), authentications, service of process, advance healthcare, and cable franchise.

Recurring		FY 2008-09
531211	Salaries	\$ 26,444
531511	Social Security	\$ 2,023
531521	Retirement	\$ 2,071
531561	Medical Insurance	\$ 4,157
532811	Telephone Service	\$ 150
533110	General Office Supp	\$ 1,000
Total Recurring		\$ 42,892

Non- Recurring		FY 2008-09
544XXX	Property, Plant, Equip	\$ 7,047
Total Non-Recurring		\$ 7,047

1230 Securities Registration

4 Paralegal II

\$47,201 R
\$8,300 NR
1.00

The primary function of this position will be to administer the compliance of companies who offer securities in North Carolina which are covered under federal law.

Recurring		FY 2008-09
531211	Salaries	\$ 35,585
531511	Social Security	\$ 2,722
531521	Retirement	\$ 2,786
531561	Medical Insurance	\$ 4,157
532714	Trans.-grnd in-state	\$ 500
532811	Telephone Service	\$ 500
532840	Postage	\$ 250
532850	Printing	\$ 250
532930	Registration	\$ 200
533110	General Office Supp	\$ 250
Total Recurring		\$ 47,201

Non-Recurring		
534534	PC/Printer Equipment	\$ 4,000
534511	Office Furniture	\$ 4,000
534521	Office Equip	\$ 300
Total Non-Recurring		\$ 8,300

Department-wide

5 Budgets Over-realized receipts

Budgets over-realized receipts in the amount of \$100,000.

(\$100,000) NR

6 Decrease Operating Budget

(\$50,000) R

Recurring reduction in the operating budget.

Department-wide:

1110	534535	Server Equipment	(20,000)
	534713	PC Software	(5,000)
	534714	Server Software	(6,000)
1120	532850	Print, Bind, Duplicate	(7,000)
1210	532840	Office Equipment	(2,000)
1220	533110	General Off. Supplies	(2,450)
1230	532942	Oth. Emp. Educ. Ex.	(1,000)
	535830	Membership Dues & Subsc	(6,550)

Budget Changes

\$136,877 R

(\$1,106) NR

Total Position Changes

4.00

Revised Total Budget

\$10,878,812

State Board of Elections

GENERAL FUND

Total Budget Approved 2007 Session FY 08-09
\$9,626,868

Budget Changes

1100 Administration

1 Administration Officer II \$46,970 R

Funding is provided to establish an Administrative Officer II (\$37,074) to manage personnel and budget responsibilities to allow the Deputy Director to concentrate on election-related matters. 1.00

Recurring		FY 2008-09
531211	Salaries	\$37,074
531511	Social Security	\$ 2,836
531521	Retirement	\$ 2,902
531561	Medical Insurance	\$ 4,157
	Total Recurring	\$46,970

1200 Campaign Reporting

2 Three Disclosure and Education Specialists \$202,861 R

Funding is provided to establish three Disclosure and Education Specialists (\$54,956) in the Campaign Reporting Division to audit campaign finance reports and provide education to candidates, committees and the public. 3.00

Recurring		
531211	Salary	\$164,868
531511	Social Sec.	\$ 12,612
531521	Retirement	\$ 12,909
531561	Medical Insurance	\$ 12,471
	Total Recurring	\$202,861

3 Time-Limited Position Changes \$59,887 R

Funding is provided to convert two time-limited audit specialists (\$59,887) to permanent positions to continue auditing campaign finance reports to reduce the backlog. The positions received funding through December 2008 in the 2007 Budget. One time-limited position is eliminated as of January 1, 2009. -1.00

1300 Voter Registration & Voting Systems

4 Additional IT Personnel \$152,643 R

Funding is provided for one Business & Technology Applications Analyst (\$75,000) and one Technology Support Analyst (\$50,000) to support the Statewide Elections Information Management System. 2.00

Recurring		FY 2008-09
531211	Salaries	\$125,000
531511	Social Security	\$ 9,563
531521	Retirement	\$ 9,788
531561	Medical Insurance	\$ 8,592

1901 HAVA Maintenance of Effort

5 Provide Help America Vote Act (HAVA) State Match \$168,708 NR

Provides additional State funding to meet the obligatory 5% State Match of \$168,708 for federal Help America Vote Act (HAVA) of 2002 Title II requirements payment for Federal Fiscal Years 2008 and 2009.

Department-wide

6 Decrease Operating Budget (\$48,135) R

Recurring reduction of \$48,135 in the operating budget of the LAN Support account.

Budget Changes **\$414,226 R**

\$168,708

Total Position Changes 5.00

Revised Total Budget **\$10,209,802**

State Budget & Management

GENERAL FUND

Total Budget Approved 2007 Session **FY 08-09**
\$5,877,440

Budget Changes

1310 Office of State Budget

1 One Business and Technology Position \$99,139 R

Funding is provided for one Business and Technology Applications Specialist position (\$84,375) to perform administration of Oracle and SAS. 1.00

Recurring		FY 2008-09
531211	Salaries	\$ 82,250
531511	Social Security	\$ 6,292
531521	Retirement	\$ 6,440
531561	Medical Insurance	\$ 4,157
	Total Recurring	\$ 99,139

Department-wide

2 Decrease Operating Budget (\$83,897) R

Recurring reductions of \$83,897 in the operating budget to the following accounts:

Department-wide:		
532199	Misc. Contractual Services	(23,897)
532430	Maint. Agreement-Equip.	(8,000)
532712	Travel/Emp Expenses	(20,000)
532712	Transp. Air-Out-Of-State	(3,000)
532721	Lodging-In-State	(2,000)
532722	Lodging-Out-Of-State	(6,000)
532811	Telephone	(5,000)
532941	Employee Educ. Assist.	(5,000)
533100	Gen Administrative Supplies	(3,000)
534XXX	Property, Plant, Equipment	(8,000)

Budget Changes **\$15,242 R**

Total Position Changes 1.00

Revised Total Budget **\$5,892,682**

State Budget and Management - Special

GENERAL FUND

Total Budget Approved 2007 Session		FY 08-09
		\$5,621,446
Budget Changes		
1023 Fire Protection Grants		
1 Fire Protection Grant		\$300,000 R
<p>The Governor recommends funding the fire protection grants-in-aid program on a recurring basis in order to assist local fire districts that provide fire protection and other services to state-owned facilities. In 2007-08, \$300,000 was appropriated on a one-time basis.</p>		
1900 Reserves and Transfers		
2 Earned Income Tax Credit Outreach		\$150,000 NR
<p>Provides funding to the EITC Carolinas Initiative at MDC, Inc., to support free tax preparation and outreach efforts associated with the earned income tax credit for low-income North Carolina taxpayers.</p>		
3 Museum of the Marine		\$500,000 NR
<p>Funding is provided to the Museum of the Marine, a non-profit organization, to complete the architectural plans of the Museum of the Marine. The museum will be located in the City of Jacksonville.</p>		
4 North Carolina State Veterans Park		\$15,000,000 NR
<p>Funding is provided to construct the North Carolina State Veterans Park, which includes a formal garden, a visitors center, and a Freedom Trail.</p>		
5 Reserve for Military Morale, Recreation, & Welfare		\$1,000,000 NR
<p>Funding is provided for the reserve for military morale, recreation, and welfare to sustain historical grants to military installations to provide community service and quality-of-life programs for military members and their families in North Carolina.</p>		
Budget Changes		\$300,000 R
		\$16,650,000 NR
Total Position Changes		
Revised Total Budget		\$22,571,446

State Controller

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09
	\$20,727,698

Budget Changes

Department-wide

1 Decrease Operating Budget	(\$110,940)	R
Recurring reduction of \$110,940 in the operating budget of the Data Processing account.		

Budget Changes	(\$110,940)	R
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Total Position Changes

Revised Total Budget	\$20,616,758
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Total Budget Approved 2007 Session	FY 08-09
	\$9,326,190

Budget Changes

1210 Investment Division

1 Investment Management Positions \$763,829 R

Funds are provided for 2 salary increases and 6 new positions. The new positions include one Senior Portfolio Manager position (\$160,000), 3 Portfolio Manager/Sr. Credit Analyst positions (\$70,000), and 2 Investment/Credit Analyst positions (\$55,000).

6.00

The existing Senior Portfolio Manager position (Pos. No. 3430-2611-2100-110 and 3430-2611-2100-113) salaries will increase to \$160,000.

Recurring		FY 2008-09
531211	Salaries	\$ 639,840
531511	Social Security	\$ 48,978
531521	Retirement	\$ 50,099
531561	Medical Insurance	\$ 24,942
Total Recurring		\$ 763,829

1410 Retirement Operations

2 Audit State Employee Service Records

Nonrecurring receipts in the amount of \$1,200,000 for FY 2008-09 are authorized for financial/audit services to audit State employee service records.

3 Four Business & Technology App. Analysts

Funds are provided for four Business and Technology Application Analysts (\$75,469) for ORBIT support. All expenditures will be funded with receipts.

Recurring		FY 2008-09
531211	Salaries	\$301,876
531511	Social Security	\$ 23,094
531521	Retirement	\$ 23,636
531561	Medical Insurance	\$ 16,628
Total Recurring		\$365,234

Budget Changes	\$763,829
Total Position Changes	6.00
Revised Total Budget	\$10,090,019

Treasurer - Retirement for Fire and Rescue

GENERAL FUND

Total Budget Approved 2007 Session	FY 08-09
	\$9,458,957

Budget Changes	
1412 Gen. Fund Contribution to Fire Pension Fund	
1 Increase Retirement Benefits	\$1,027,851 R
Increases the benefits in the Fireman's and Rescue Squad Workers' Pension Fund from \$167 to \$170 per month for retirees and future retirees effective July 1, 2008.	

Budget Changes	\$1,027,851
Total Position Changes	
Revised Total Budget	\$10,486,808

TRANSPORTATION

Section K

Highway Fund

HIGHWAY FUND

Total Budget Approved 2007 Session	FY 08-09
	\$1,810,990,000

Budget Changes

Administration

- | | | | |
|----------|---|----------------|----|
| 1 | Janitorial Contracts | \$601,581 | R |
| | Increases funds to support contracted janitorial services at DOT facilities statewide. | | |
| 2 | Repairs and Renovations | \$9,084,221 | NR |
| | Provides funds for repairs and renovations of department facilities located throughout the state. | | |
| 3 | Reduction to Administrative Budgets | (\$12,000,000) | R |
| | Reduces funds for central administration within DOT. | | |

Division of Motor Vehicles

- | | | | |
|----------|--|-------------|----|
| 4 | Driver License Vertical Format | \$50,000 | NR |
| | Provides funds for the implementation of a vertical driver license format for drivers under 21 years of age. These funds shall not be expended unless HB 2487 or substantially similar legislation is enacted during the 2008 General Assembly. | | |
| 5 | Space Requirements | \$195,266 | R |
| | Increases funds for overall space needs at six driver license offices to meet standards for customer service delivery and increased staff and equipment. Offices are located in Asheboro, Brevard, Kenansville, Lumberton, Marshall and Wallace. | | |
| 6 | IT Requirements - Property Tax Collection | | |
| | Provides funds for the planning and detail design of an information technology project necessary for meeting the requirements of HB1779. The nonrecurring funding requirement for FY2008-09 is \$4,873,099 and the source is the Combined Motor Vehicle and Registration Account, held in the NC State Treasurer's Office. | | |
| 7 | IT Requirements - Database Project | | |
| | Provides funds to create a database of vehicle property tax data necessary for meeting the requirements of HB1779. The nonrecurring funding requirement for FY2008-09 is \$367,200 and the source is the Combined Motor Vehicle and Registration Account, held in the NC State Treasurer's Office. | | |
| 8 | Postage Costs | \$1,815,111 | R |
| | Increases funds for additional postage necessary to comply with statutory requirements of HB 267, requiring central issuance of all driver licenses effective July 1, 2008. | | |

Ferry Division

9 Ferry Division

Provides additional funds for the ferry maintenance facility in Manns Harbor. \$1,000,000 NR

Maintenance

10 System Preservation

Provides funds for highway maintenance activities that preserve and extend the life of infrastructure assets, including pavement, bridges, traffic signals and other roadside features. \$24,542,804 NR

11 Continuation Review of Spot Safety Program

Changes the funding for the Spot Safety Program from recurring to non-recurring. This program is subject to continuation review. (\$9,100,000) R
\$9,100,000 NR

Rail Division

12 Grants to Short-Line Railroads

Provides funds to continue the grant program supporting short-line railroad companies. The funds are used to rehabilitate and strengthen North Carolina's short-line infrastructure. \$1,000,000 NR

Statutory Adjustments

13 Secondary Road Construction Program

Adjusts funding for secondary road construction based on revised projections for motor fuels tax revenue in accordance with G.S. 136-44.2A. \$1,807,592 R

14 Leaking Underground Storage Tank Fund

Adjusts budget for the Leaking Underground Storage Tank Fund based on projections for the motor fuels inspection fee in accordance with G.S. 119-18. (\$185,000) R

15 Aid to Municipalities

Adjusts funding for aid to municipalities based on revised projections for motor fuels tax revenue in accordance with G.S. 136-41.1. \$1,807,592 R

Transfers

16 Driver Education Program

Increases funds for the Driver Education Program to support an increase in the average daily membership of students eligible for driver education training in FY2008-09. \$616,491 R

17 New Positions

Transfers funds from the Highway Fund to the Department of Agriculture and Consumer Services for the support of one Gas and Oil Inspector position and one Chemistry Technician II position. \$84,749 R
\$99,350 NR
2.00
The recurring amount of \$84,749 includes salary, benefits, vehicle operating expenses, office supplies and cell phone services. The non-recurring amount of \$99,350 includes vehicles, testing and computer equipment.

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18 Leaking Underground Storage Tank Fund Reduction	(\$84,749)	R
Reduces appropriation to the Leaking Underground Storage Tank Fund, thus making funds available to support two positions in the Department of Agriculture and Consumer Services. (See Item 15).	(\$99,350)	NR
<hr/>		
Budget Changes	(\$14,441,367)	R
	\$44,777,025	NR
Total Position Changes		2.00
Revised Total Budget	\$1,841,325,658	
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Highway Trust Fund

HIGHWAY TRUST FUND

Total Budget Approved 2007 Session	FY 08-09	\$1,138,780,000
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Budget Changes

Highway Trust Fund

19 Intrastate System	(\$40,691,943)	R
Reduces funds for the Intrastate System to \$504,290,380 for FY2008-09 consistent with new revenue estimates and statutory formula.		
20 Urban Loops	(\$16,454,126)	R
Reduces funds for the Urban Loops to \$203,914,028 for FY2008-09 consistent with new revenue estimates and statutory formula.		
21 Aid to Municipalities	(\$4,269,533)	R
Reduces funds for Aid to Municipalities to \$52,911,824 for FY2008-09 consistent with new revenue estimates and statutory formula.		
22 Transfer to General Fund	(\$25,000,000)	R
Reduces transfer to General Fund in FY2008-09 by \$25,000,000. The total amount of the transfer to the General Fund under G.S. 105-187.9b(1) is \$145,000,000 for FY2008-09.		
23 Secondary Road Construction	(\$7,687,965)	R
Reduces funds for the Secondary Road construction program to \$88,102,604 for FY2008-09, consistent with new revenue estimates and statutory formula.		
24 North Carolina Turnpike Authority	\$25,000,000	R
Provides funds for the North Carolina Turnpike Authority for its gap funding for the Triangle Expressway project.		
25 Transfer to General Fund	(\$143,793)	R
Reduces transfer to General Fund in FY2008-09 to \$2,531,245 in accordance with G.S. 105-187.9(b)2.		
26 Administration	\$3,627,360	R
Increases funds for administration to \$51,409,920 in FY2008-09 consistent with an increase to 4.8% in the statutory formula for maximum amount allowed for administration.		

Budget Changes	(\$65,620,000)	R
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Total Position Changes

Revised Total Budget	\$1,073,160,000
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**RESERVES/
DEBT SERVICE/
ADJUSTMENTS
Section L**

Statewide Reserves

GENERAL FUND

FY 08-09

Total Budget Approved 2007 Session

\$1,358,925,649

Budget Changes

A. Employee Benefits

1 State Funded Compensation Increases

\$360,192,676 R

Provide funds to support salary increases for employees of State agencies, departments, universities, community college institutions, and public schools.

\$8,151,912 NR

2 Public School Salary Increases

Certified Teaching, School Based Administrators and Non-certified Personnel in local Public Schools, State agency based Public Schools, and the NC School of Science and Mathematics.

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 a flat annual increase in the base teacher salary schedule of \$680 for steps 0-2 and \$470 for steps 3-31 for Fiscal Year 2008-2009 (total average increase of 3.0%). Teachers and Instructional Support who are at the top of the experience based salary schedule will receive a 1.8% one-time lump sum bonus.

Principals and Assistant Principals - Funds are provided to support an experience based step increase for school board administrators (average salary increase of 1.67%) and a flat annual increase in the school based administrators salary schedule for Fiscal Year 2008-2009 (total average increase of 2.69%). School based administrators who are at the top of the experience based salary schedule will receive a 2.0% one-time lump sum bonus.

All other Public School Personnel - Provide funds to support an annual salary increase equal to the greater of \$1,100 or 2.75%.

3 Community College Salary Increases

Faculty and Professional Staff - Provide funds to support a 3.0% annual salary increase.

All other Community College Personnel - Provide funds to support an annual salary increase equal to the greater of \$1,100 or 2.75%.

4 University Salary Increases

EPA Faculty and EPA Non-faculty - Provide funds to support a 3.0% annual salary increase.

All other University Personnel - Provide funds to support an annual salary increase equal to the greater of \$1,100 or 2.75%.

5 State Agency/Department Salary Increases

Provide funds to support an annual salary increase equal to the greater of \$1,100 or 2.75% for permanent employees of State agencies and departments.

6 Highway Fund Reserve for Compensation Increases		
Provides funding in the amount of \$14,762,342 recurring to support an annual salary increase equal to the greater of \$1,100 or 2.75% for permanent employees whose salaries are supported by Highway Fund appropriations.		
7 No Penalty for Teachers Taking Personal Leave		
Provides funding to allow classroom teachers and media specialists who require a substitute to use one personal leave day during FY 2008-2009 and receive full salary. Teachers and media specialists will continue to receive full salary less the required substitute deduction for personal leave days used over one day in FY 2008-2009.	\$5,000,000	NR
8 Department of Health and Human Services/Sign-on Bonuses		
Provides funding for sign-on bonuses for newly employed registered nurses hired in State operated facilities in the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.	\$500,000	NR
9 Retirement System Contributions	\$30,237,400	R
Increases the State's contribution for Fiscal Year 2008-2009 to provide a 2.2% cost-of-living adjustment for retirees of the Teachers' and State Employees' Retirement System. This adjustment is funded in part with actuarial gains within the Retirement System.		
10 Highway Fund Reserve for Retirement System Contributions		
Provides funding in the amount of \$1,462,000 recurring to increase the State's retirement contribution for positions supported by Highway Fund appropriations for Fiscal Year 2008-2009 in order to provide a 2.2% cost-of-living adjustment to retirees of the Teachers' and State Employees' Retirement System. This adjustment is funded in part with actuarial gains within the Retirement System.		
11 Reduce Statewide Reserves -- Premium Contributions	(\$5,000,000)	R
Reduces appropriation to a statewide reserve used to fund increased health benefit related premium contribution costs incurred by employing agencies. According to the Office of State Budget and Management, funds to be eliminated have not been disbursed from the statewide reserve and are in excess of projected requirements. This action does not affect funding of the State Health Plan.		
B. Other Reserves		
12 Task Force on Preventing Agricultural Pesticide Exposure	\$221,374	R
Appropriates funds for four positions to implement the recommendations outlined in the Governor's Task Force on Preventing Pesticide Exposure report.	\$135,681	NR
	4.00	
13 Pending Legislation for Gang Prevention	\$10,000,000	NR
Provides funds contingent upon the enactment of pending legislation for gang prevention.		
14 Job Development Investment Grants (JDIG)	\$15,000,000	R
Provides additional funds to meet projected cash flow requirements for JDIG.		

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15 North Carolina Master Address Dataset

Provides funding to the Center for Geographic Information and Analysis for a master data set to ensure the accuracy and completeness of the 2010 census. The dataset will also improve emergency response, school and voting redistricting, delivery of citizen services, and other public agency business applications and functions.

\$1,000,000 NR

16 Criminal Justice Data Integration Pilot

Provides funding to begin the development and implementation of a Criminal Justice Data Integration pilot program to integrate and ensure the real time availability of critical information for law enforcement and the judicial system.

\$5,000,000 NR

C. Debt Service

17 Debt Service

Reduces the General Fund appropriations for debt service due to revised earnings on bond proceeds

(\$17,500,000) NR

Budget Changes

\$400,651,450 R

\$12,287,593 NR

Total Position Changes

4.00

Revised Total Budget

\$1,771,864,692

CAPITAL

Section M

Capital

GENERAL FUND

A. Department of Administration

1 State Capital Visitors Center/Plaza/Underground Parking Facility Planning

Provides capital planning funds for the proposed State Capital Visitors Center, public plaza, and underground parking. The Department of Administration will work with the Department of Cultural Resources regarding the design of the visitors center. The size of the visitors center will be no more than 45,800 square feet and the parking facility will have 490 spaces. The General Assembly appropriated \$250,000 in FY 2005-06 and \$627,281 in FY 2007-08 for current advance planning efforts. The total project cost is \$41.3 million

\$2,600,000 NR

2 NC Freedom Monument

Provides capital planning funds for the NC Freedom Monument, a half-acre plaza located in Raleigh. The plaza will honor the struggle by North Carolinians to gain and protect freedom. The total cost is \$4.5 million and \$1.5 million of the cost will be offset by receipts. The General Assembly appropriated \$100,000 for the monument in FY 2007-08.

\$450,000 NR

The Department of Administration will contract with NC Freedom Monument Project, Inc. to accomplish this project and use plans developed by NC Freedom Monument Project, Inc.

D. Crime Control and Public Safety

3 Statewide Master Facilities Plan - Phase 2

Provides capital planning funds for developing Phase 2 of the National Guard's statewide master facilities plan. The State owns and operates 92 armory facilities across North Carolina, and many facilities are 30 years old or more. The five phase master planning process will determine future renovation and construction needs. The General Assembly appropriated \$280,294 in General Funds monies and \$290,000 in federal receipts for Phase 1 in FY 2007-08. The federal government will offset \$345,578 of the cost for Phase 2. The total cost for all five phases is \$2.6 million.

\$300,300 NR

4 Siler City Armory Rehabilitation

Provides capital funds for the comprehensive rehabilitation of the National Guard's Siler City Armory. This rehabilitation is needed to protect the State's asset and meet State mission needs. No federal funds are available for this project. The total project cost is \$929,600.

\$929,600 NR

5 Camp Butner Land Buffers - Phase 2

Provides capital funds for the purchase of conservation easements and other development rights from privately held property around the National Guard's Camp Butner. This project is intended to protect the Camp's operations and mission from encroaching development in Butner. This is Phase 2 of a six phase plan for acquiring land buffers. The General Assembly appropriated \$117,800 for Phase 1 in FY 2007-08. The total cost for all six phases is \$830,203.

\$126,200 NR

6 Camp Butner Latrine Replacement

Provides capital funds for the construction of 1,500 square feet of latrine facilities for training sites at Camp Butner. This project will coincide with the extension of a federally-funded sewer line to the Camp. The sewer line project will cost \$738,950. The project cost is \$245,430.

\$245,430 NR

E. Department of Justice

7 SBI Buildings 17 & 18 Addition

Provides capital funds for constructing an addition to buildings 17 and 18 on the Garner Road Complex to house the Department's information technology group. The IT group was recently relocated to the Garner Road Complex after the sale of the Blount Street property in downtown Raleigh. The current space is inadequate to meet the Department's IT needs. The project will increase the size of buildings 17 and 18 by no more than 11,500 square feet. The total project cost is \$1.8 million.

\$1,792,006 NR

F. Department of Commerce

8 Wanchese Capital Improvements

Provides capital funds for the following improvements at the Wanchese Seafood Industrial Park:

\$605,700 NR

Fire Protection Improvements \$110,900
 Road Repair and Improvements \$94,800
 Wastewater Treatment Improvements \$400,000

G. Department of Agriculture and Consumer Services

9 Veterinary Laboratory System Study

Provides capital planning funds for examining the current veterinary lab system. The study will determine needed facilities replacement and rehabilitation projects to enhance the lab system's mission of disease diagnosis and control. The study will encompass the main lab facility in Raleigh and four regional labs.

\$620,000 NR

10 Motor fuels/Metrology Laboratory Study

Provides capital planning funds for a combined motor fuels/metrology laboratory to replace the two existing labs. The current motor fuels lab is overcrowded and not suited for evolving motor fuels regulation. The current metrology lab is hampered by increasing traffic and construction around the Blue Ridge Complex. Such activity creates ground vibrations that impact the measuring equipment in the metrology lab.

\$300,000 NR

The total project cost for a joint replacement laboratory is not available and would be determined in the planning process. The undetermined cost to relocate the metrology lab or develop foundation solutions to mitigate ground vibrations makes estimating the total project cost difficult at this time.

11 Hunt Horse Complex Horse Barn

Provides capital funds for a horse barn at the James B. Hunt Horse Complex in Raleigh.

\$900,000 NR

H. Department of Environment and Natural Resources**12 NC Zoo - Africa Pavilion Replacement Planning**

Provides capital planning funds for the replacement of the current Africa Pavilion. Changes to the protocol for handling primates, flaws in the original pavilion design, the lack of air conditioning, and the condition of the existing facility create the need to replace the Africa Pavilion. The new facilities will provide more outdoor exhibit space, appropriate animal handling facilities, and enhanced visitor support facilities. The NC Zoo Society will provide \$400,000 towards planning the replacement facilities. The total project cost is \$25 million.

\$600,000 NR

13 Water Resources Development Projects

Provides funds for the State's share of Water Resources Development Projects. Projects are specified in a special provision.

\$20,000,000 NR

I. UNC System Board of Governors**14 Appalachian State University - Nursing Building Planning**

Provides capital planning funds for the proposed College of Nursing and Health Sciences Building. The facility will contribute to the UNC Tomorrow committee's goal of improving health and wellness. The building size will be no more than 150,000 square feet. The total project cost is \$42 million.

\$4,200,000 NR

15 Elizabeth City State University - Aviation Complex Site Development

Provides capital planning and site development funds for the proposed Aviation Complex. The facility will contribute to the UNC Tomorrow committee's goal of economic transformation. The building size will be no more than 75,000 square feet. The facility will include additional lease space to house community college aviation programs. The General Assembly appropriated \$500,000 to this project in FY 2006-07. The total project cost is \$17.5 million.

\$1,500,000 NR

16 Fayetteville State University - Teaching Education Building Planning

Provides capital planning funds for the proposed Teaching Education and General Classroom Building. The facility will contribute to the UNC Tomorrow committee's goal of improving public education. The building size will be no more than 130,000 square feet. The total project cost is \$42.7 million.

\$4,272,110 NR

17 Millennium Campus - Joint Primary Data Center Planning

Provides capital planning funds for the proposed Joint Primary Data Center to be located at the Gateway University Research Park. The facility will be shared between NC Agricultural and Technical State University and the University of North Carolina at Greensboro. The facility will contribute to the UNC Tomorrow committee's goal of improving global readiness. The building size will be no more than 50,680 square feet. The total project cost is \$46.3 million.

\$1,852,016 NR

<p>18 NC School of Science and Math - Discovery Center Site Development Provides capital planning and site development funds for the proposed Discovery Center. The facility will provide new classroom, research, dining, and residential space, as well as, infrastructure upgrades for the campus. The building size will be no more than 275,000 square feet. The General Assembly appropriated \$3,337,000 in FY 2007-08. The total project cost is \$70 million.</p>	<p>\$7,250,000 NR</p>
<p>19 NC State University - Engineering Complex Planning Provides capital planning funds for the construction of Engineering Buildings IV and V on the Centennial Campus. Combined, the two new engineering buildings will be no larger than 430,000 square feet. The total project includes the comprehensive renovation of Broughton Hall, Mann Hall, Page Hall, and Daniels Hall. These buildings would be vacated by the School of Engineering as new buildings are completed. The total cost for the project is \$213.7 million.</p>	<p>\$14,400,000 NR</p>
<p>20 UNC Asheville - Carmichael Hall and Lecture Hall Replacement Planning Provides capital planning funds for the proposed replacement of Carmichael Hall and the University Lecture Hall. The facility will contribute to the UNC Tomorrow committee's goal of improving access. The building size will be no more than 60,000 square feet. The total project cost is \$26.8 million.</p>	<p>\$1,100,000 NR</p>
<p>21 UNC Chapel Hill - Biomedical Research Imaging Center (BRIC) Provides capital funds to complete planning, begin site development, and prepurchase materials for the Biomedical Research Imaging Center (BRIC). The newly scoped project will now include wet labs and drug research space not included in the original project scope. The facility will contribute to the UNC Tomorrow committee's goal of improving health and wellness. The building size will be no more than 343,000 square feet. The General Assembly appropriated \$8 million in FY 2007-08. The total project cost is \$260 million. A special provision will establish G.S. 116-29.5, which will appropriate \$220 million in General Fund monies over the next biennium to fully construct the BRIC building. This statute will automatically expire, if debt financing is authorized for the project by June 30, 2009.</p>	<p>\$35,000,000 NR</p>
<p>22 UNC-Chapel Hill - Carolina North Phase 1 and School of Law Replacement Provides capital funds for Phase 1 of Carolina North. Phase 1 comprises the first 15 years of development on the research campus. The funding will plan the replacement facility for the School of Law to be located at Carolina North. These funds will provide shared infrastructure for the law school and the Innovation Center, a self-liquidating project approved by the General Assembly in 2007. The campus will contribute to the UNC Tomorrow committee's goal of economic transformation. The University will provide \$160.8 million in receipt-supported funds to the project. The total cost for Phase 1 is \$329.8 million.</p>	<p>\$11,500,000 NR</p>

23 UNC-Chapel Hill - Morehead Planetarium Comp. Renovation and Expansion	Provides capital planning funds for the comprehensive renovation for the Morehead Planetarium. The project also includes planning funds for the expansion of the facility to include a science education center. The total project cost is \$58 million.	\$1,800,000	NR
24 UNC Charlotte Science Building Planning	Provides capital planning funds for the proposed Science Building. The facility will contribute to the UNC Tomorrow committee's goal of improving global readiness and science education. The building size will be no more than 235,000 square feet. The total project cost is \$120 million.	\$2,400,000	NR
25 UNC Pembroke - Information Commons Building Planning	Provides capital planning funds for the proposed Information Commons Building. The facility will contribute to the UNC Tomorrow committee's goal of improving access. The building size will be no more than 150,000 square feet. The total project cost is \$50 million.	\$2,000,000	NR
26 UNC Wilmington - Allied Health and Human Science Building Planning	Provides capital planning funds for the proposed Allied Health and Human Science Building. The facility will contribute to the UNC Tomorrow committee's goal of improving health and wellness. The building size will be no more than 105,000 square feet. The total project cost is \$43.2 million.	\$4,320,000	NR
27 Western Carolina University - Education and Professions Building Planning	Provides capital planning funds for the proposed Education and Allied Professions Building. The facility will contribute to the UNC Tomorrow committee's goal of improving public education. The building size will be no more than 163,000 square feet. The total project cost is \$47.7 million.	\$4,018,700	NR
28 Winston-Salem State University - Science and Office Building Planning	Provides capital planning funds for the proposed Science and General Office Building. The facility will contribute to the UNC Tomorrow committee's goal of improving global readiness. The building size will be no more than 69,000 square feet. The total project cost is \$28.2 million.	\$3,000,000	NR
29 UNC Upper Coastal Plain Higher Education and Health Center Planning	Provides capital planning funds for the proposed UNC Upper Coastal Plain Higher Education and Health Center. The facility will contribute to the UNC Tomorrow committee's recommendation for establishing regional campuses or service centers. The facility will house the regional consortium involving East Carolina University, Elizabeth City State University, NC Central University, and NC State University. The building will also house a nursing and allied health program run by East Carolina University and Edgecombe Community College. The total project cost is \$15 million.	\$1,000,000	NR

J. State Facilities Special Indebtedness**30 Department of Cultural Resources - Museum of Art Expansion Supplement**

Revises S.L. 2006-66 to increase the authorization for certificates of participation to complete the construction of the new Museum of Art Building. The total cost of this project is \$ 72.3 million. The General Assembly appropriated \$2.2 million in FY 2004-05 and \$10 million in FY 2005-06. The City of Raleigh and Wake County have jointly committed \$15 million towards the expansion. Total debt authorized is increased by \$5.1 million to a total amount of \$45.1 million.

31 Department of Cultural Resources - CSS Neuse Phase I

Authorizes the issuance of certificates of participation for the construction of a climate controlled building to house the CSS Neuse, the remains of a Civil War ironclad gunboat. The size of the building will be no more than 20,000 square feet. This is the first of three phases to develop the CSS Neuse State Historic Site in Kinston.

Future phases include the renovation of an old bank building and the creation of exhibits in the Phase 1 building and the Phase 2 renovated building.

The project cost of Phase 1 is \$3.5 million. The General Assembly provided \$500,000 for this project in FY 2007-08. The total cost for all three phases is \$9.3 million.

Total debt authorized is \$2.9 million.

32 Administrative Office of the Courts - System Office Building Acquisition

Authorizes the issuance of certificates of participation for the acquisition of the Administrative Office of the Courts' main office building in Raleigh. The facility is currently leased.

The purchase would include a 180,000 square foot office building, a 35,000 square foot warehouse, 17.5 acres of land, and 585 parking spaces. The total cost is \$34 million. The total debt authorized is \$34 million.

The total amount authorized is \$34 million.

33 NC Correctional Institution for Women - Healthcare Facility

Authorizes the issuance of certificates of participation for the construction of a healthcare and mental health facility for the NC Correctional Institution for Women. The facility will include 80 infirmary beds and 70 mental health beds. The total cost of this project is \$51.7 million. The General Assembly appropriated \$5 million in FY2007-08. The Department has committed \$1.6 million in receipts to the project. Total debt authorized is \$45.2 million.

34 Scotland Correctional Institution - Minimum Security Addition

Authorizes the issuance of certificates of participation for the construction of a 252 bed minimum custody addition to Scotland Correctional Institution. The total cost of this project is \$13.9 million. The General Assembly appropriated \$3.5 million in advance planning funds for this and three other prison additions in FY 2007-08. Total debt authorized is \$13 million.

35 Bertie Correctional Institution - Medium Security Addition

Authorizes the issuance of certificates of participation for the construction of a 504 bed medium custody addition to Bertie Correctional Institution. The total cost of this project is \$19.8 million. The General Assembly appropriated \$3.5 million in advance planning funds for this and three other prison additions in FY 2007-08. Total debt authorized is \$19 million.

36 Tabor Correctional Institution - Minimum Security Addition

Authorizes the issuance of certificates of participation for the construction of a 252 bed minimum custody addition to Tabor Correctional Institution. The total cost of this project is \$13.9 million. The General Assembly appropriated \$3.5 million in advance planning funds for this and three other prison additions in FY 2007-08. Total debt authorized is \$13 million.

37 Lanesboro Correctional Institution Medium Security Addition

Authorizes the issuance of certificates of participation for the construction of a 504 bed medium custody addition to Lanesboro Correctional Institution. The total cost of this project is \$19.8 million. The General Assembly appropriated \$3.5 million in advance planning funds for this and three other prison additions in FY 2007-08. Total debt authorized is \$19 million.

38 Department of Commerce - NC Ports Improvements

Authorizes the issuance of certificates of participation for the following NC Ports projects.

Debt proceeds will replace 400 linear feet of berthing at the Port of Wilmington. Phase 2 will replace an additional 600 linear feet of Berth 8. The General Assembly appropriated \$5 million for this project in FY 2007-08. The NC Ports will provide \$10.3 million in receipt-supported funds towards the project. The project cost is \$20.3 million.

Debt proceeds will be used for assorted berth improvements throughout the Port at Morehead City. This is the first phase of a multi-year series of improvements to the Port of Morehead City's berths. The NC Ports will provide \$14.4 million in receipt-supported funds over the course of completing the planned berth improvements. The total cost to complete planned berth improvements is \$26.9 million.

Total debt authorized is \$7 million.

39 DENR - NC Zoo Polar Bear Exhibit Renovation and Expansion

Authorizes the issuance of certificates of participation for the renovation and expansion of the polar bear exhibit at the North Carolina Zoo. The Zoo has determined that its most popular exhibit is inadequate for handling polar bears in captivity. It has one remaining adult polar bear and the current exhibit will impact the Zoo's ability to acquire new bears. The project will replace holding facilities, provide off-exhibit outdoor pens, and expand the main exhibit to provide walking space for the bears. The NC Zoo Society will provide \$1.8 million in receipts for the project. Total project cost is \$4.5 million. Total debt authorized is \$2.7 million.

40 DENR - Research Oyster Hatchery

Authorizes the issuance of certificates of participation for a research scale oyster hatchery in the Division of Marine Fisheries. The hatchery will be located at the Center for Marine Science at UNC Wilmington. The total cost of the project is \$4.3 million. Total debt authorized is \$4.3 million.

41 DENR - Land for Tomorrow Parks and Land Conservation

Authorizes the issuance of certificates of participation for the acquisition of State park lands and conservation areas. Parks projects would be identified by the NC Parks and Recreation Authority for expanding the State Park System and the Mountain to Seas Trail. Natural heritage projects would be identified by the trustees of the Natural Heritage Trust Fund to represent the ecological diversity of the State.

All funds will support the conservation priorities of the One North Carolina Naturally Program.

Total debt authorized is \$50 million.

42 Department of Agriculture and Consumer Services Improvements

Authorizes the issuance of certificates of participation to complete the following capital improvements in the Department of Agriculture and Consumer Services:

Western North Carolina Agricultural Center Davis Area Renovation and Expansion	\$7,450,000
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Western North Carolina Farmers' Market Bathroom and Truckshed Expansion	\$650,000
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The total amount authorized for these projects is \$8.1 million

43 DA&CS - Southeastern North Carolina Agriculture Center Pavillion

Authorizes the issuance of certificates of participation for a 60,000 square foot pavilion building for equine, livestock, and trade show events. The total project cost is \$3.7 million. Total debt authorized is \$3.7 million.

44 East Carolina University - School of Dentistry Facilities

Authorizes the issuance of certificates of participation for the construction of the School of Dentistry building in Greenville and up to 10 satellite dental clinics around the State. The size of the main building will be no more than 112,500 square feet. The total cost of this project is \$97 million. The General Assembly appropriated \$3 million in FY 2006-07 and \$25 million in FY2007-08 for this project. Total debt authorized is \$69 million.

45 East Carolina University - Family Medicine and Geriatric Center

Authorizes the issuance of certificates of participation for the construction of the Family Medicine and Geriatric Center. The size of the main building will be no more than 118,000 square feet. The total cost of this project is \$46.8 million. The University will provide \$10 million in receipt-supported funds for the project. Total debt authorized is \$36.8 million.

46 Elizabeth City State University - School of Education Building

Authorizes the issuance of certificates of participation for the construction of a new School of Education building. The size of the facility will be no more than 45,000 square feet. The total cost of this project is \$20 million. The General Assembly appropriated \$2 million in FY2007-08. Total debt authorized is \$18 million.

47 NC Agricultural and Technical University - General Classroom Building

Authorizes the issuance of certificates of participation for the construction of a new general classroom building. The size of the building will be no more than 115,000 square feet. The total cost of this project is \$26.8 million. The General Assembly appropriated \$1 million in FY2006-07 and \$5.3 million in FY2007-08. Total debt authorized is \$20.5 million.

48 NC Agricultural and Technical University - Horse Barns

Authorizes the issuance of certificates of participation for land acquisition and construction of the State-owned portion of the facility to support the equestrian program of NC A&T. The facility will be located at the proposed Barnes Street site in Reidsville and will be jointly operated by NC A&T, the County of Rockingham, and the City of Reidsville. Total debt authorized is \$2.4 million.

49 NC Central University - School of Nursing Building

Authorizes the issuance of certificates of participation for the construction of a new School of Nursing building. The size of the building will be no more than 65,000 square feet. The total cost of this project is \$27 million. The General Assembly appropriated \$2.5 million in FY2007-08. Total debt authorized is \$24.5 million.

50 NC School of the Arts - Central Storage Facility

Authorizes the issuance of certificates of participation for the construction of a Central Storage Facility. The size of the building will be no more than 60,000 square feet with 10,000 square feet for NCSA police operations. The total cost of this project is \$11.1 million. Total debt authorized is \$11.1 million.

51 NC School of the Arts - Film School Production Design Facility

Authorizes the issuance of certificates of participation for the construction of a Film School Production Design Facility. The total cost of this project is \$12.9 million. Total debt authorized is \$12.9 million.

52 NC State University - Centennial Campus Library

Authorizes the issuance of certificates of participation for the construction of a new library building at NC State's Centennial Campus. The size of the building will be no more than 279,000 square feet. The total cost of this project is \$126 million. The General Assembly appropriated \$17 million in FY2007-08. Total debt authorized is \$109.1 million.

53 NC State University - 4-H Camps Improvements

Authorizes the issuance of certificates of participation for the proposed renovations and new facilities at the State's 4-H camps. The General Assembly appropriated \$7.5 million in FY 2007-08 towards a \$34 million facilities plan. This \$4 million would be the second installment in funding the multi-year plan.

Total debt authorized is \$4 million.

54 UNC Chapel Hill - School of Dentistry Expansion

Authorizes the issuance of certificates of participation for the construction of expanded facilities for the School of Dentistry. The size of the project will be no more than 216,000 square feet. The total cost of this project is \$125 million. The General Assembly appropriated \$2 million in FY 2005-06, \$3 million in FY 2006-07, and \$25 million in FY2007-08 towards this project. The University will provide \$26 million in receipt-supported funding for the project. Total debt authorized is \$69 million.

55 UNC Charlotte - Energy Production Infrastructure Center (EPIC)

Authorizes the issuance of certificates of participation for the Energy Production Infrastructure Center (EPIC). The size of the building will be no more than 200,000 square feet. The total cost of this project is \$76.2 million. The General Assembly appropriated \$19 million in FY2007-08. Total debt authorized is \$57.2 million.

56 UNC Greensboro - Academic Classroom and Office Building

Authorizes the issuance of certificates of participation for the construction of a new academic classroom and office building. The building will primarily serve School of Education needs. The size of the building will be no more than 120,000 square feet. The total cost of this project is \$47.5 million. The General Assembly appropriated \$2.3 million in FY2006-07 and \$2.5 million in FY2007-08 for this project. Total debt authorized is \$42.7 million.

57 Winston-Salem State University - Student Activity Center

Revises S.L. 2007-323 to increase the authorization for certificates of participation to complete the construction of the Student Activity Center. Originally proposed as a project to be funded with 50% General Fund monies and 50% student fees, student fees are now proposed to cover 10% of the project cost. The General Assembly appropriated \$768,225 in FY 2006-07 and authorized \$18.7 million in special indebtedness in FY 2007-08. Total debt authorized is increased by \$9.8 million to a total amount of \$28.5 million.

58 Center for Design Innovation - Site Development Supplement

Revises S.L. 2004-179 as revised in S.L. 2006-146 to increase the authorization for certificates of participation to complete the construction of the Center for Design Innovation. The project, jointly operated by Winston-Salem State University and the North Carolina School of the Arts, will be located at the Piedmont Triad Research Park. The total cost of this project is \$11.5 million. Total debt authorized is increased by \$1.5 million to total authorization amount of \$11.5 million.

59 UNC System - Dormitory Fire Sprinklers

Authorizes the issuance of certificates of participation for the installation of fire sprinklers in campus dormitories. Installation projects will be coordinated with other renovation projects. Funds will be combined with the authority to use repairs and renovations funds and housing receipts to complete sprinklering projects. These funds will help UNC fully sprinkle campus dormitories by 2012. UNC allocated \$9.3 million in housing receipts, receipt-supported debt, and repairs and renovations funds toward sprinkler projects in FY 2007-08. The total cost for system-wide fire protection is \$47.4 million. Total debt authorized for this initiative is \$10 million.

60 UNC System - Land Acquisition

Authorizes the issuance of certificates of participation for the acquisition of State land for campuses throughout the system. The allocation of debt proceeds will be administered by UNC General Administration, at the discretion of the President. Total debt authorized for land acquisitions is \$25 million.

K. General Obligation Bonds**61 DENR - Green Square Complex**

Authorizes the issuance of general obligation bonds under Article V, Section 4(2) of the NC Constitution to complete the construction of the Green Square Project. The project consists of a 172,000 square foot office building for the Department of Environment and Natural Resources; a 79,400 square foot expansion of the NC Museum of Natural Science, called the Nature Research Center; and 426 spaces of underground parking. This project is combined with a parking deck authorized in S.L. 2006-231 that will house up to 900 spaces.

The total cost of the project is \$150 million, excluding the 900 space parking deck. The General Assembly appropriated \$25 million for the project in FY 2007-08. Parking receipts will service the debt for parking construction. The Friends of the Museum of Natural Science have committed \$27.5 million towards the cost of construction of the Nature Research Center and \$15.5 million towards exhibits. The Friends will fundraise during construction and make their gift at the completion of construction. Total debt authorized is \$107 million.

A special provision authorizes the State to use Dry Cleaning Solvent Fund monies to offset the clean up costs of the project site.

Total Appropriation to Capital

\$129,082,062 NR

**INFORMATION
TECHNOLOGY
SERVICES
Section N**

Information Technology Services

SPECIAL FUND

Total Budget Approved 2007 Session

FY 08-09

Budget Changes

1 Office of State Chief Information Officer	\$2,027,464	R
Provides funding to support the operations of the State CIO's Office.		
2 ISO/Security Initiatives	\$1,696,490	R
Provides funding to continue support for Statewide security initiatives.		
3 Information Technology Asset Management	\$1,602,904	R
Provides funding to support the implementation of a Statewide asset management system by the Office of Information Technology Services.		
	\$550,000	NR
4 Enterprise Project Management Office	\$2,185,706	R
Continues the operation of the office responsible for overseeing the development and implementation of IT systems within State agencies.		
5 Enterprise Technology Strategies Office	\$1,189,214	R
Provides Statewide engineering and architecture support.		
6 Start-up Funding: Enterprise Services	\$200,000	R
Provides funding to support the implementation of new enterprise-wide applications to support State agency operations.		
7 State Portal	\$163,000	R
Provides funding for the State portal.		
8 ESRI Licenses	\$597,500	R
Provides funding for cost of ESRI licenses to support Geographic Information Systems (GIS) within the State.		
9 NCID	\$2,219,314	R
Provides the State with technology to support identity management, authentication, and authorization of users.		
10 Information Technology Consolidation	\$749,548	R
Provides funding to continue the Information Technology Consolidation program.		
	\$400,000	NR
11 BEACON/Data Integration Funds	\$5,000,000	NR
Provides funding to develop a Statewide data integration initiative implemented under the guidance of the BEACON Steering Committee.		

Information Technology Services

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Budget Changes	\$12,631,140	R
	\$5,950,000	NR
Total Position Changes		
Revised Total Budget	\$18,581,140	

**GOVERNMENTAL
AND
PROPRIETARY
FUNDS
AND
SELECTED
COMPONENT
UNITS
Section O**

Governmental and Proprietary Funds and Selected Components Units Fiscal Year 2008-09											
2008 Legislative Session											
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS			Net Change	Revised Appropriation			
				2008-09	Adjustment	Recurring			Nonrecurring	Recurring	Nonrecurring
	Education										
	Public Instruction										
23510	DPI Requirements-Special	5,557,876	-	-	-	-	-	5,557,876			
	Receipts	(5,557,876)	-	-	-	-	-	(5,557,876)			
	Change in Fund Balance										
	Positions										
23515	DPI-IT Projects-GF	31,077,844	-	-	-	-	-	31,077,844			
	Receipts	(31,077,844)	-	-	-	-	-	(31,077,844)			
	Change in Fund Balance										
	Positions	34.0	10.0	-	-	-	10.0	44.0			
23511	DPI-School Technology -Special	32,315,000	-	-	-	-	-	32,315,000			
	Receipts	(32,315,000)	-	-	-	-	-	(32,315,000)			
	Change in Fund Balance										
	Positions										
29110	DPI Public School Building Fund	231,840,923	-	-	14,200,000	-	14,200,000	245,840,923			
	Receipts	(231,840,923)	-	-	(14,200,000)	-	(14,200,000)	(245,840,923)			
	Change in Fund Balance										
	Positions										
63501	DPI-Trust-Special	14,012,772	(49,362)	-	-	-	(49,362)	13,963,410			
	Receipts	(14,012,772)	49,362	-	-	-	49,362	(13,963,410)			
	Change in Fund Balance										
	Positions		1.5	-	-	-	1.50	1.50			
63503	DPI-Trust GF	8,553,542	-	-	-	-	-	8,553,542			
	Receipts	(8,553,542)	-	-	-	-	-	(8,553,542)			
	Change in Fund Balance										
	Positions										
63510	DPI-Trust-Enterprise	9,601,970	(95,821)	-	-	-	(95,821)	9,506,149			
	Receipts	(9,601,970)	95,821	-	-	-	95,821	(9,506,149)			
	Change in Fund Balance										
	Positions	9.55	-	-	-	-	-	9.55			
63511	DPI-Trust GF	35,805,781	-	-	-	-	-	35,805,781			
	Receipts	(35,805,781)	-	-	-	-	-	(35,805,781)			
	Change in Fund Balance										
	Positions										
73510	DPI-Internal Service Fund	145,480,572.0	20,159,020.0	-	-	-	20,159,020	165,639,592			
	Receipts	(145,480,572.0)	(20,159,020.0)	-	-	-	(20,159,020)	(165,639,592)			
	Change in Fund Balance										
	Positions										

Fiscal Year 2008-09											
2008 Legislative Session											
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation		
				2008-09	Adjustment	Reductions	Expansion				
				Recurring	Nonrecurring	Recurring	Nonrecurring		2008-09		
26800	Community College CC-Special-GF	30,343,822 (30,343,822)	-	-	-	-	-	-	30,343,822 (30,343,822)		
	Receipts										
	Change in Fund Balance										
	Positions										
26802	NCCS-Information Technology	27,279,227 (27,279,227)	-	-	-	-	-	-	27,279,227 (27,279,227)		
	Receipts										
	Change in Fund Balance										
	Positions										
66800	NCCS-Trust	266,503 (266,503)	-	-	-	-	-	-	266,503 (266,503.0)		
	Receipts										
	Change in Fund Balance										
	Positions										
66801	CC-Trust GF	14,011,202 (14,011,202)	-	-	-	-	-	-	14,011,202 (14,011,202)		
	Receipts										
	Change in Fund Balance										
	Positions										
	Component Units										
	University System										
56095	UNC-Hospitals Auxiliary Enterprises	174,850 (414,849) (239,999)	(174,850)	414,849	239,999	-	-	(174,850) 414,849 239,999	- - -		
	Receipts										
	Change in Fund Balance										
	Positions										
56096	UNC-Hospitals Operating Requirements	812,556,177 (806,482,623) 6,073,554	-	-	-	-	-	-	812,556,177 (806,482,623) 6,073,554		
	Receipts										
	Change in Fund Balance										
	Positions										
	General Government										
	Administration										
24100	DOA Special Fund	10,889,708 (10,827,179) 62,529 37,75	2,184,381 (1,892,244)	482,137	-	-	-	2,184,381 (1,892,244) 482,137	13,174,089 (12,619,423) 554,666 37,75		
	Receipts										
	Change in Fund Balance										
	Positions										
24101	DOA-Special Health Plan	-	-	-	-	-	-	-	-		
	Receipts										
	Change in Fund Balance										
	Positions										
24102	DOA Special Fund	972,078 (870,242)	-	-	-	-	-	-	972,078 (870,242)		
	Receipts										

Fiscal Year 2008-09											
2008 Legislative Session											
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation		
				Reductions		Expansion					
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09			
	Change in Fund Balance	101,838	-	-	-	-	-	101,838			
	Positions	9.18	-	-	-	-	-	9.18			
24104	DOA-Special GF	15,378	4,500,000	-	-	-	-	4,515,378			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	15,378	4,500,000	-	-	-	-	4,515,378			
	Positions	-	-	-	-	-	-	-			
54100	DOA Enterprise	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
64100	DOA-Trust	2,000	-	-	-	-	-	2,000			
	Receipts	(2,000)	-	-	-	-	-	(2,000)			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
64106	DOA NC Veteran Trust	15,281,130	1,900,000	-	-	-	-	17,181,130			
	Receipts	(15,281,130)	(1,900,000)	-	-	-	-	(17,181,130)			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
74100	DOA Internal Service	60,137,128	2,049,002	-	-	-	-	62,186,130			
	Receipts	(60,137,128)	(2,049,002)	-	-	-	-	(62,186,130)			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	192.25	(12.75)	-	-	-	-	179.50			
74103	DOA Internal Service-Special	-	1,650,998	1,618,418	-	1,618,418	-	4,887,834			
	Receipts	-	(1,650,998)	-	-	(1,650,998)	-	(1,650,998)			
	Change in Fund Balance	-	-	1,618,418	-	1,618,418	-	3,236,836			
	Positions	-	12.75	-	-	-	-	12.75			
23300	OSA-Special	179,117	-	-	-	-	-	179,117			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	179,117	-	-	-	-	-	179,117			
	Positions	-	-	-	-	-	-	-			
28025	State Board of Elections (SBOE)	12,036,446	-	-	-	-	-	13,036,446			
	Receipts	(629,250)	-	-	-	-	-	(629,250)			
	Change in Fund Balance	11,407,196	-	-	-	-	-	12,407,196			
	Positions	-	-	-	-	-	-	-			
68025	SBOE-NC Candidate-Special	1,089,510	-	-	-	-	-	1,089,510			
	Receipts	(1,089,510)	-	-	-	-	-	(1,089,510)			
	Change in Fund Balance	1,000	-	-	-	-	-	1,000			
	Positions	-	-	-	-	-	-	-			
68026	SBOE-NC Pol.Pty.-Special	258,876	-	-	-	-	-	258,876			
	Receipts	(258,876)	-	-	-	-	-	(258,876)			
	Change in Fund Balance	-	-	-	-	-	-	-			

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS						Revised Appropriation		
				Reductions		Expansion		Net Change	2008-09			
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring			Recurring	Nonrecurring	
68027	Positions	-	-	-	-	-	-	-	-	-	-	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
28026	Positions	-	-	-	-	-	-	-	-	-	-	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
	Office of State Controller (OSC)	-	-	-	-	-	-	-	-	-	-	-
24160	OSC-Special GF	2,789,153	-	-	-	-	-	-	-	-	-	2,789,153
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	2,789,153	-	-	-	-	-	-	-	-	-	2,789,153
	Positions	3.0	-	-	-	-	-	-	-	-	-	3.0
	Cultural Resources	-	-	-	-	-	-	-	-	-	-	-
24800	Cultural Resources- Special	497,240	-	-	-	-	-	-	-	-	-	497,240
	Receipts	(497,240)	-	-	-	-	-	-	-	-	-	(497,240)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	4.31	-	-	-	-	-	-	-	-	-	4.31
24801	Cultural Resources- Art Museum Special	10,000	-	-	-	-	-	-	-	-	-	10,000
	Receipts	(10,000)	-	-	-	-	-	-	-	-	-	(10,000)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24802	Cultural Resources- Roanoke Island Special	2,107,546	-	-	-	-	-	-	-	-	-	2,107,546
	Receipts	(2,107,546)	-	-	-	-	-	-	-	-	-	(2,107,546)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	35.00	-	-	-	-	-	-	-	-	-	35.00
24803	Cultural Resources- Special	331	-	-	-	-	-	-	-	-	-	331
	Receipts	(331)	-	-	-	-	-	-	-	-	-	(331)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24804	Cultural Resources- Special Tryon Palace	1,063,875	-	-	-	-	-	-	-	-	-	1,063,875
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	1,063,875	-	-	-	-	-	-	-	-	-	1,063,875
	Positions	-	-	-	-	-	-	-	-	-	-	-
24805	Cultural Resources- Special	-	-	-	-	-	-	-	-	-	-	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
54800	Cultural Resources- Enterprise	94,032	-	-	-	-	-	-	-	-	-	94,032

Fiscal Year 2008-09											
2008 Legislative Session											
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation		
				Reductions		Expansion					
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09			
	Receipts	(94,032)	-	-	-	-	-	(94,032)			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	3,00	-	-	-	-	-	3,00			
	Office of the Governor										
23000	Governors Office- Special	2,816,343	-	-	-	-	-	2,816,343			
	Receipts	(2,742,408)	-	-	-	-	-	(2,742,408)			
	Change in Fund Balance	73,935	-	-	-	-	-	73,935			
	Positions	7,30	-	-	-	-	-	7,30			
23001	Governors Office- Special Interest Earning	100,000	480,281	-	-	-	-	580,281			
	Receipts	(17,000)	(25,000)	-	-	-	-	(42,000)			
	Change in Fund Balance	83,000	455,281	-	-	-	-	538,281			
	Positions	-	-	-	-	-	-	-			
23002	Governors Office- Special GF	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
23003	Governors-Ed. Lottery Fund Special Fund	-	-	-	-	385,500,000	19,750,000	405,250,000			
	Receipts	-	-	-	-	385,500,000	19,750,000	405,250,000			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
23004	Governors-Ed. Lottery Reserve Special	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
	Information Technology Services										
24467	ITS- Special	14,189,314	6,140	-	-	-	-	14,195,454			
	Receipts	(10,898,826)	138,859	-	-	-	-	(10,759,967)			
	Change in Fund Balance	3,290,488	144,999	-	-	-	-	3,435,487			
	Positions	47,000	(3,000)	-	-	-	-	44,000			
24668	ITS- E-Grant-Special	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
24669	ITS- Wireless-Special	103,614,754	-	-	-	-	-	103,614,754			
	Receipts	(105,408,389)	-	-	-	-	-	(105,408,389)			
	Change in Fund Balance	(1,793,635)	-	-	-	-	-	(1,793,635)			
	Positions	-	-	-	-	-	-	-			
74660	ITS- Internal Service	203,508,903	36,176,796	-	-	-	-	241,685,699			
	Receipts	(197,819,438)	(43,573,815)	-	-	-	-	(241,393,253)			
	Change in Fund Balance	5,689,465	(5,397,019)	-	-	-	-	292,446			

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring Adjustment	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				Reductions	Expansion	Nonrecurring	Recurring					
		2008-09	118.00	Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09				
	Positions	412.00	118.00	-	-	-	-	530.00				
	Office of State Budget and Management											
23005	OSBM-Fines & Penalties Special	95,500,000	36,538,000	-	-	-	-	132,038,000				
	Receipts	(95,500,000)	(36,538,000)	-	-	-	-	(132,038,000)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
23008	OSBM-Disaster Relief GF	6,947,157	-	-	-	-	-	6,947,157				
	Receipts	(6,947,157)	-	-	-	-	-	(6,947,157)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
	Component Units											
	Housing Financing Authority											
23010	NC Housing Finance-Special	57,141,118	141,005	-	-	-	-	57,282,123				
	Receipts	(57,141,118)	(141,005)	-	-	-	-	(57,282,123)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	116.00	-	-	-	-	-	116.00				
23011	NC Housing Finance-Special Interest	-	-	-	-	-	-	-				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
63010	NC Housing Finance-Trust	-	-	-	-	-	-	-				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
63011	NC Housing Finance-Partnership	8,000,000	-	-	-	-	-	8,000,000				
	Receipts	(8,000,000)	-	-	-	-	-	(8,000,000)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
	Insurance											
23900	Insurance-Special-Interest Earning	28,889,885	-	-	-	-	-	28,889,885				
	Receipts	(29,659,465)	-	-	-	-	-	(29,659,465)				
	Change in Fund Balance	(769,480)	-	-	-	-	-	(769,480)				
	Positions	3.30	-	-	-	-	-	3.30				
23901	Insurance-Special-Non-Interest Earning	1,240,983	-	-	-	-	-	1,240,983				
	Receipts	(1,240,983)	-	-	-	-	-	(1,240,983)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	6.00	-	-	-	-	-	6.00				
23902	Insurance-Special-Interest Earning	245,533	-	-	-	-	-	245,533				
	Receipts	(188,554)	-	-	-	-	-	(188,554)				
	Change in Fund Balance	76,979	-	-	-	-	-	76,979				
	Positions	-	-	-	-	-	-	-				

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation			Technical Recurring Adjustment			LEGISLATIVE ADJUSTMENTS			Revised Appropriation	
		2008-09	2008-09	2008-09	2008-09	2008-09	2008-09	2008-09	2008-09	2008-09		
							Reductions	Expansion	Expansion	Net Change		
23903	Insurance-Special-Non-Interest Earning	86,192									86,192	
	Receipts	(75,549)									(75,549)	
	Change in Fund Balance	10,643									10,643	
	Positions											
63901	Insurance-Special-Trust	5,975,396									5,975,396	
	Receipts	(5,975,396)									(5,975,396)	
	Change in Fund Balance											
	Positions											
63902	Insurance-Voluntary Safety Workers Comp.	6,885,094									6,885,094	
	Receipts	(6,885,094)									(6,885,094)	
	Change in Fund Balance											
	Positions											
63903	Insurance-Trust-Internal Service	17,261,268									17,261,268	
	Receipts	(17,261,268)									(17,261,268)	
	Change in Fund Balance											
	Positions											
	Revenue											
24700	Revenue-Special Fund	12,143,764									12,143,764	
	Receipts	(12,143,764)									(12,143,764)	
	Change in Fund Balance											
	Positions											
24701	Revenue-Special Fed. Retiree-GF											
	Receipts											
	Change in Fund Balance											
	Positions											
24702	Revenue-Intangible Tax-Special-GF											
	Receipts											
	Change in Fund Balance											
	Positions											
24703	Revenue-Disaster-GF											
	Receipts											
	Change in Fund Balance											
	Positions											
24704	Revenue Project Collect Tax-GF	12,119,752									12,119,752	
	Receipts	(12,119,752)									(12,119,752)	
	Change in Fund Balance											
	Positions											
24705	Revenue Transfers/Refunds-GF											
	Receipts											
	Change in Fund Balance											
	Positions											
24706	Revenue-Lee Tax Credits-GF	160,190									160,190	

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring Adjustment	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				Reductions		Expansion						
		2008-09	2008-09	Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09				
	Receipts	(160,190)	-	-	-	-	-	(160,190)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
24707	Revenue-Tax Transaction Fees-GF	448,194	-	-	-	-	-	448,194				
	Receipts	(448,194)	-	-	-	-	-	(448,194)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
24708	Revenue IT Projects-GF	-	-	-	-	40,000,000	-	40,000,000				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	-	-	-	-	40,000,000	-	40,000,000				
	Positions	-	-	-	-	-	-	-				
	Secretary of State	-	-	-	-	-	-	-				
23200	Secretary of State-Special	224,171	2,750	-	-	-	-	226,921				
	Receipts	(224,171)	(2,750)	-	-	-	-	(226,921)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
63201	Secretary of State-Trust-Special	113,469	70,951	-	-	-	-	184,420				
	Receipts	(113,469)	(70,951)	-	-	-	-	(184,420)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
	State Treasurer	-	-	-	-	-	-	-				
23410	State Treasurer-Motor Vehicle & Registration	-	-	-	-	-	-	-				
	Receipts	(5,926,149)	-	-	-	-	-	(5,926,149)				
	Change in Fund Balance	(5,926,149)	-	-	-	-	-	(5,926,149)				
	Positions	-	-	-	-	-	-	-				
23420	DST-IT Projects-GF	573,336	-	-	-	-	-	573,336				
	Receipts	(573,336)	-	-	-	-	-	(573,336)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
23480	DST-Blount Street Properties-GF	-	-	-	-	-	-	-				
	Receipts	(5,097,660)	-	-	-	-	-	(5,097,660)				
	Change in Fund Balance	(5,097,660)	-	-	-	-	-	(5,097,660)				
	Positions	-	-	-	-	-	-	-				
68163	DST-Bonding Refunding Proceeds-GF	112,107	-	-	-	-	-	112,107				
	Receipts	(153,444)	-	-	-	-	-	(153,444)				
	Change in Fund Balance	(41,337)	-	-	-	-	-	(41,337)				
	Positions	-	-	-	-	-	-	-				
69430	DST-Debt Service Clearing	708,780,624	-	-	-	-	-	708,780,624				
	Receipts	(708,912,267)	-	-	-	-	-	(708,912,267)				
	Change in Fund Balance	(1,131,643)	-	-	-	-	-	(1,131,643)				
	Positions	-	-	-	-	-	-	-				
69440	DST-NC Infrastructure Finance Corp.-GF	394,834,431	-	-	-	-	-	394,834,431				

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				2008-09	Adjustment	Reductions				Expansion		
				2008-09	Recurring	Nonrecurring	Recurring	Nonrecurring		2008-09		
	Receipts	(405,878,671)	-	-	-	-	-	-	-	(405,878,671)		
	Change in Fund Balance	(11,044,240)	-	-	-	-	-	-	-	(11,044,240)		
	Positions	-	-	-	-	-	-	-	-	-		
69450	DST-Basis Swap-GF	5,836,628	-	-	-	-	-	-	-	5,836,628		
	Receipts	(5,836,628)	-	-	-	-	-	-	-	(5,836,628)		
	Change in Fund Balance	-	-	-	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-	-	-	-		
68175	DST-Interest Public Sch. Bond 1997-Special	2,283,445	-	-	-	-	-	-	-	2,283,445		
	Receipts	(304,872)	-	-	-	-	-	-	-	(304,872)		
	Change in Fund Balance	1,978,573	-	-	-	-	-	-	-	1,978,573		
	Positions	-	-	-	-	-	-	-	-	-		
68132	DST-Interest Clean Water 2003A-Special	1,563	-	-	-	-	-	-	-	1,563		
	Receipts	(77)	-	-	-	-	-	-	-	(77)		
	Change in Fund Balance	1,486	-	-	-	-	-	-	-	1,486		
	Positions	-	-	-	-	-	-	-	-	-		
68140	DST-In.Cin Water Revolving Loan 2003B -Special	22,260	-	-	-	-	-	-	-	22,260		
	Receipts	(1,097)	-	-	-	-	-	-	-	(1,097)		
	Change in Fund Balance	21,163	-	-	-	-	-	-	-	21,163		
	Positions	-	-	-	-	-	-	-	-	-		
68148	DST-In.Cin Water Revolving Loan 2004A -Special	1,221	-	-	-	-	-	-	-	1,221		
	Receipts	(80,545)	-	-	-	-	-	-	-	(80,545)		
	Change in Fund Balance	(79,324)	-	-	-	-	-	-	-	(79,324)		
	Positions	-	-	-	-	-	-	-	-	-		
68157	DST-Int. 2006A Clean Water Bonds-Special	1,870,388	-	-	-	-	-	-	-	1,870,388		
	Receipts	(1,923,583)	-	-	-	-	-	-	-	(1,923,583)		
	Change in Fund Balance	(53,195)	-	-	-	-	-	-	-	(53,195)		
	Positions	-	-	-	-	-	-	-	-	-		
68183	DST-Int. 1999C Clean Water Bonds-Special	59	-	-	-	-	-	-	-	59		
	Receipts	(6,306)	-	-	-	-	-	-	-	(6,306)		
	Change in Fund Balance	(6,247)	-	-	-	-	-	-	-	(6,247)		
	Positions	-	-	-	-	-	-	-	-	-		
68192	DST-Int. Drinking Water Repty. 2002C	328	-	-	-	-	-	-	-	328		
	Receipts	(38,118)	-	-	-	-	-	-	-	(38,118)		
	Change in Fund Balance	(37,790)	-	-	-	-	-	-	-	(37,790)		
	Positions	-	-	-	-	-	-	-	-	-		
68193	DST-In.Cin Water Revolving Loan 2002C -Special	19,472	-	-	-	-	-	-	-	19,472		
	Receipts	(1,118)	-	-	-	-	-	-	-	(1,118)		
	Change in Fund Balance	18,354	-	-	-	-	-	-	-	18,354		
	Positions	-	-	-	-	-	-	-	-	-		
68155	DST-Interest Natural Gas Bonds 2005-Special	464,000	-	-	-	-	-	-	-	464,000		
	Receipts	(20,112)	-	-	-	-	-	-	-	(20,112)		
	Change in Fund Balance	443,888	-	-	-	-	-	-	-	443,888		

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring Adjustment	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				Reductions		Expansion						
		2008-09		Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09				
	Positions											
68174	DST-Interest CI 1987 Series A	280,480	-	-	-	-	-	280,480				
	Receipts	(23,951)	-	-	-	-	-	(23,951)				
	Change in Fund Balance	266,529	-	-	-	-	-	266,529				
	Positions											
23460	DST-Health & Wellness Trust Fund-Special	25,498,722	-	-	-	-	-	25,498,722				
	Receipts											
	Change in Fund Balance	25,498,722	-	-	-	-	-	25,498,722				
	Positions	17,00	-	-	-	-	-	17,00				
68158	DST-Interest 2006A Higher Ed-Special	19,196,825	-	-	-	-	-	19,196,825				
	Receipts	(9,635,314)	-	-	-	-	-	(9,635,314)				
	Change in Fund Balance	9,261,511	-	-	-	-	-	9,261,511				
	Positions											
68188	DST-Interest Higher Ed CC 01-Special	3,048,744	-	-	-	-	-	3,048,744				
	Receipts	(601,244)	-	-	-	-	-	(601,244)				
	Change in Fund Balance	2,447,500	-	-	-	-	-	2,447,500				
	Positions											
23401	DST-Clean Water Repayment-Special	9,830,865	-	-	-	-	-	9,830,865				
	Receipts	(9,812,176)	-	-	-	-	-	(9,812,176)				
	Change in Fund Balance	18,689	-	-	-	-	-	18,689				
	Positions											
63412	DST-Escheats-Special	66,666,902	-	-	-	-	-	66,666,902				
	Receipts	(202,107,116)	-	-	-	-	-	(202,107,116)				
	Change in Fund Balance	(135,420,214)	-	-	-	-	-	(135,420,214)				
	Positions											
63414	DST-Fire Loan											
	Receipts	(13,450)	-	-	-	-	-	(13,450)				
	Change in Fund Balance	(13,450)	-	-	-	-	-	(13,450)				
	Positions											
63415	DST-Assur. Land Titles											
	Receipts	(5,070)	-	-	-	-	-	(5,070)				
	Change in Fund Balance	(5,070)	-	-	-	-	-	(5,070)				
	Positions											
68154	DST-Public Improvement 2005A Special	34,260,718	-	-	-	-	-	34,260,718				
	Receipts	(1,791,964)	-	-	-	-	-	(1,791,964)				
	Change in Fund Balance	32,468,754	-	-	-	-	-	32,468,754				
	Positions											
68190	DST-Interest Publ. Imp. Bonds 2002A-Special	11,316,446	-	-	-	-	-	11,316,446				
	Receipts	(2,896,616)	-	-	-	-	-	(2,896,616)				
	Change in Fund Balance	8,419,830	-	-	-	-	-	8,419,830				
	Positions											
68220	DST-Int. 2007A GO Public Imp.-Special	20,240,010	-	-	-	-	-	20,240,010				

Fiscal Year 2008-09											
2008 Legislative Session											
Budget Code	Function	Certified Appropriation	Technical Recurring Adjustment	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation		
				Reductions		Expansion					
		2008-09		Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09			
	Receipts	(30,170,483)	-	-	-	-	-	(30,170,483)			
	Change in Fund Balance	(9,930,473)	-	-	-	-	-	(9,930,473)			
	Positions	-	-	-	-	-	-	-			
68128	DST-Int. Wastewater Rept. 1999C-Enterprise	220	-	-	-	-	-	220			
	Receipts	(25,023)	-	-	-	-	-	(25,023)			
	Change in Fund Balance	(24,803)	-	-	-	-	-	(24,803)			
	Positions	-	-	-	-	-	-	-			
68133	DST-Int. Wastewater Rept. 2003A-Enterprise	26,571	-	-	-	-	-	26,571			
	Receipts	(14,606)	-	-	-	-	-	(14,606)			
	Change in Fund Balance	11,965	-	-	-	-	-	11,965			
	Positions	-	-	-	-	-	-	-			
68141	DST-Int. Wastewater Rept. 2003B-Enterprise	22,670	-	-	-	-	-	22,670			
	Receipts	(9,389)	-	-	-	-	-	(9,389)			
	Change in Fund Balance	13,281	-	-	-	-	-	13,281			
	Positions	-	-	-	-	-	-	-			
68149	DST-Int. Wastewater Rept. 2004A-Enterprise	62,265	-	-	-	-	-	62,265			
	Receipts	(23,750)	-	-	-	-	-	(23,750)			
	Change in Fund Balance	38,515	-	-	-	-	-	38,515			
	Positions	-	-	-	-	-	-	-			
68198	DST-Int. Wastewater Rept. 2002C-Enterprise	971	-	-	-	-	-	971			
	Receipts	(112,325)	-	-	-	-	-	(112,325)			
	Change in Fund Balance	(111,354)	-	-	-	-	-	(111,354)			
	Positions	-	-	-	-	-	-	-			
68126	DST-Int. Drinking Water Rept. 1999C-Enterprise	111	-	-	-	-	-	111			
	Receipts	(12,751)	-	-	-	-	-	(12,751)			
	Change in Fund Balance	(12,640)	-	-	-	-	-	(12,640)			
	Positions	-	-	-	-	-	-	-			
68137	DST-Int. Drinking Water Rept. 2003A-Enterprise	8,566	-	-	-	-	-	8,566			
	Receipts	(4,148)	-	-	-	-	-	(4,148)			
	Change in Fund Balance	4,418	-	-	-	-	-	4,418			
	Positions	-	-	-	-	-	-	-			
68142	DST-Int. Drinking Water Rept. 2003B-Enterprise	11,217	-	-	-	-	-	11,217			
	Receipts	(3,326)	-	-	-	-	-	(3,326)			
	Change in Fund Balance	7,891	-	-	-	-	-	7,891			
	Positions	-	-	-	-	-	-	-			
68150	DST-Int. Drinking Water Rept. 2004B-Enterprise	23,219	-	-	-	-	-	23,219			
	Receipts	(7,512)	-	-	-	-	-	(7,512)			
	Change in Fund Balance	15,707	-	-	-	-	-	15,707			
	Positions	-	-	-	-	-	-	-			
28101	State Boards										
	NC State Board-Barber-Proprietary	528,797	-	-	-	-	-	528,797			
	Receipts	(543,549)	-	-	-	-	-	(543,549)			

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring Adjustment	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				Reductions		Expansion						
		2008-09		Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09				
	Change in Fund Balance	(14,752)	-	-	-	-	-	(14,752)				
	Positions	7.00	-	-	-	-	-	7.00				
28102	NC State Board of Cosmetic Arts-Proprietary	2,127,587	-	-	-	-	-	2,127,587				
	Receipts	(1,066,211)	-	-	-	-	-	(1,066,211)				
	Change in Fund Balance	1,061,376	-	-	-	-	-	1,061,376				
	Positions	33.00	-	-	-	-	-	33.00				
28103	NC State Board of Opticians-Proprietary	209,457	-	-	-	-	-	209,457				
	Receipts	(176,265)	-	-	-	-	-	(176,265)				
	Change in Fund Balance	33,192	-	-	-	-	-	33,192				
	Positions	2.00	-	-	-	-	-	2.00				
28104	NC State Board of Psychology-Proprietary	601,235	-	-	-	-	-	601,235				
	Receipts	(783,830)	-	-	-	-	-	(783,830)				
	Change in Fund Balance	(182,595)	-	-	-	-	-	(182,595)				
	Positions	6.00	-	-	-	-	-	6.00				
28106	NC State Board of Auctioneer-Proprietary	508,657	-	-	-	-	-	508,657				
	Receipts	(509,539)	-	-	-	-	-	(509,539)				
	Change in Fund Balance	(882)	-	-	-	-	-	(882)				
	Positions	4.50	-	-	-	-	-	4.50				
28107	NC State Board of Electrolysis-Proprietary	22,900	-	-	-	-	-	22,900				
	Receipts	(22,900)	-	-	-	-	-	(22,900)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
	Health & Human Services											
	DHHS-Central Management & Support											
64410	Central Mgmt.-Trust-GF	268,419	-	-	-	-	-	268,419				
	Receipts	(268,419)	-	-	-	-	-	(268,419)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
64412	Central Mgmt.-Trust-Interest Earning-GF	475,325	-	-	-	-	-	475,325				
	Receipts	(475,325)	-	-	-	-	-	(475,325)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
64411	Aging-Trust-GF	-	-	-	-	-	-	-				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
64420	DHHS-Child Development	-	-	-	-	-	-	-				
	Child Development-Trust-GF	-	-	-	-	-	-	-				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	-	-	-	-	-	-	-				

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring Adjustment	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				Reductions		Expansion						
		2008-09		Recurring	Nonrecurring	Recurring	Nonrecurring		2008-09			
	Positions	-	-	-	-	-	-	-	-			
	DHHS-Education Services											
24424	Education Services- Special	379,658	-	-	-	-	-	-	379,658			
	Receipts	(379,658)	-	-	-	-	-	-	(379,658)			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	4.00	-	-	-	-	-	-	4.00			
64424	Education Services- Special	76,814	-	-	-	-	-	-	76,814			
	Receipts	(76,814)	-	-	-	-	-	-	(76,814)			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-	-			
67424	Education Services- Special	7,560	-	-	-	-	-	-	7,560			
	Receipts	(7,560)	-	-	-	-	-	-	(7,560)			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-	-			
	DHHS-Public Health											
24430	Public Health- Special	5,635,926	-	-	-	-	-	-	5,635,926			
	Receipts	(5,635,926)	-	-	-	-	-	-	(5,635,926)			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-	-			
24432	Public Health- Special-GF	-	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-	-			
64430	Public Health WIC-GF	-	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-	-			
64431	Public Health FMNP-GF	-	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-	-			
	DHHS-Social Services											
24441	Social Services-Special- GF	1,582,453	-	-	-	-	-	-	1,582,453			
	Receipts	(1,582,453)	-	-	-	-	-	-	(1,582,453)			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-	-			
64440	Social Services-Trust-GF	890,504	-	-	-	-	-	-	890,504			
	Receipts	(890,504)	-	-	-	-	-	-	(890,504)			
	Change in Fund Balance	-	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-	-			

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS					Revised Appropriation			
				2008-09	Adjustment	Recurring	Nonrecurring	Recurring		Nonrecurring	Net Change	
64442	Social Services-Trust-GF	719,936	-	-	-	-	-	-	-	-	-	719,936
	Receipts	(719,936)	-	-	-	-	-	-	-	-	-	(719,936)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24445	DHHS-Medical Assistance	291,872,767	-	-	-	-	-	-	-	-	-	291,872,767
	Medical Assistance- Special GF	(283,816,060)	-	-	-	-	-	-	-	-	-	(283,816,060)
	Receipts	8,056,707	-	-	-	-	-	-	-	-	-	8,056,707
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64445	Medical Assistance- Trust-GF	-	-	-	-	-	-	-	-	-	-	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
24450	DHHS Services for the Blind & Deaf	2,674,914	-	-	-	-	-	-	-	-	-	2,674,914
	Blind/Deaf- Special	(2,674,914)	-	-	-	-	-	-	-	-	-	(2,674,914)
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
54450	Blind/Deaf-Enterprise	66,363	-	-	-	-	-	-	-	-	-	66,363
	Blind/Deaf-Enterprise	(66,363)	-	-	-	-	-	-	-	-	-	(66,363)
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64450	Blind/Deaf- Trust-Special	1,025	-	-	-	-	-	-	-	-	-	1,025
	Blind/Deaf- Trust-Special	(1,025)	-	-	-	-	-	-	-	-	-	(1,025)
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64452	Blind/Deaf- Trust-GF (Clearing Budget Code)	-	-	-	-	-	-	-	-	-	-	-
	Blind/Deaf- Trust-GF (Clearing Budget Code)	-	-	-	-	-	-	-	-	-	-	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
67425	Blind/Deaf- Trust-Special	9,981,780	-	-	-	-	-	-	-	-	-	9,981,780
	Blind/Deaf- Trust-Special	(9,981,780)	-	-	-	-	-	-	-	-	-	(9,981,780)
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24460	DHHS-Mental Hlth./Retardation	117,248	61,287	-	-	-	-	-	-	-	-	178,535
	DHHS-Mental Hlth./Retardation Special	(117,248)	(61,287)	-	-	-	-	-	-	-	-	(178,535)
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	1,49	-	-	-	-	-	-	-	-	-	1,49
64405	DHHS-Mental Hlth./Retardation Trust Int.Bearing	47,200	-	-	-	-	-	-	-	-	-	47,200
	DHHS-Mental Hlth./Retardation Trust Int.Bearing	(47,745)	-	-	-	-	-	-	-	-	-	(47,745)
	Receipts	(545)	-	-	-	-	-	-	-	-	-	(545)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				Reductions		Expansions						
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09				
64460	DHHS-Mental Hlth./Retardation Trust	-	-	-	-	-	-	-				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
64408	DHHS-Mental Hlth./Retardation Keehlin Trust	-	-	-	-	-	-	-				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
24401	DHHS-Julian F Keith ADATC-Special	32,318	-	-	-	-	-	32,318				
	Receipts	(32,318)	-	-	-	-	-	(32,318)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
24403	DHHS-ADATC WB Jones-Special	33,234	-	-	-	-	-	33,234				
	Receipts	(33,234)	-	-	-	-	-	(33,234)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
24404	DHHS-NC Special Care Center-Special	29,362	3,504	-	-	-	-	32,866				
	Receipts	(29,285)	(3,504)	-	-	-	-	(32,789)				
	Change in Fund Balance	107	-	-	-	-	-	107				
	Positions	-	-	-	-	-	-	-				
64404	DHHS-NC Special Care Center-Trust	1,395	600	-	-	-	-	1,995				
	Receipts	(1,395)	(600)	-	-	-	-	(1,995)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
24406	DHHS-Black Mountain Center-Special	19,375	-	-	-	-	-	19,375				
	Receipts	(19,375)	-	-	-	-	-	(19,375)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
64406	DHHS-Black Mountain Center-Trust	123	-	-	-	-	-	123				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	123	-	-	-	-	-	123				
	Positions	-	-	-	-	-	-	-				
67406	DHHS-Black Mountain Center-Trust Interest Bear.	6,275	-	-	-	-	-	6,275				
	Receipts	(7,815)	-	-	-	-	-	(7,815)				
	Change in Fund Balance	(1,540)	-	-	-	-	-	(1,540)				
	Positions	-	-	-	-	-	-	-				
24466	DHHS-J Iverson Riddle Dev. Ctr.-Special	654,001	2,884	-	-	-	-	656,885				
	Receipts	(536,137)	(2,883)	-	-	-	-	(539,020)				
	Change in Fund Balance	117,864	1	-	-	-	-	117,865				
	Positions	3,00	-	-	-	-	-	3,00				
64466	DHHS-J Iverson Riddle Dev. Ctr.-Trust	100,311	-	-	-	-	-	100,311				
	Receipts	(108,251)	-	-	-	-	-	(108,251)				

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS						Revised Appropriation		
				Reductions		Expansion		Net Change	2008-09			
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring			Recurring	Nonrecurring	
	Change in Fund Balance	(7,940)	-	-	-	-	-	-	-	-	(7,940)	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
67466	DHHS-J Iverson Riddle Dev. Ctr.-Trust Interest	100,198	-	-	-	-	-	-	-	-	100,198	-
	Receipts	(76,409)	-	-	-	-	-	-	-	-	(76,409)	-
	Change in Fund Balance	23,789	-	-	-	-	-	-	-	-	23,789	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24467	DHHS-O'Berry Center-Special	402,479	-	-	-	-	-	-	-	-	402,479	-
	Receipts	(402,479)	-	-	-	-	-	-	-	-	(402,479)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64467	DHHS-O'Berry Center-Trust-Special	82,450	-	-	-	-	-	-	-	-	82,450	-
	Receipts	(82,450)	-	-	-	-	-	-	-	-	(82,450)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
67467	DHHS-O'Berry Center-Trust-Special Interest Bear	32,943	-	-	-	-	-	-	-	-	32,943	-
	Receipts	(32,943)	-	-	-	-	-	-	-	-	(32,943)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24468	DHHS-Murdoch Center-Special	127,643	-	-	-	-	-	-	-	-	127,643	-
	Receipts	(127,643)	-	-	-	-	-	-	-	-	(127,643)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64468	DHHS-Murdoch Center-Trust-Special	57,088	-	-	-	-	-	-	-	-	57,088	-
	Receipts	(57,250)	-	-	-	-	-	-	-	-	(57,250)	-
	Change in Fund Balance	(162)	-	-	-	-	-	-	-	-	(162)	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
67468	DHHS-Murdoch Center-Trust-Special Interest	168,661	-	-	-	-	-	-	-	-	168,661	-
	Receipts	(166,426)	-	-	-	-	-	-	-	-	(166,426)	-
	Change in Fund Balance	2,235	-	-	-	-	-	-	-	-	2,235	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24469	DHHS-Caswell Center-Special	666,157	38,339	-	-	-	-	-	-	-	633,496	-
	Receipts	(695,157)	(38,339)	-	-	-	-	-	-	-	(633,496)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64469	DHHS-Caswell Center-Trust-Special	1,870	-	-	-	-	-	-	-	-	1,870	-
	Receipts	(1,632)	-	-	-	-	-	-	-	-	(1,632)	-
	Change in Fund Balance	238	-	-	-	-	-	-	-	-	238	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
67469	DHHS-Caswell Center-Trust-Special Interest Bear	337,666	-	-	-	-	-	-	-	-	337,666	-
	Receipts	(412,425)	-	-	-	-	-	-	-	-	(412,425)	-
	Change in Fund Balance	(74,729)	-	-	-	-	-	-	-	-	(74,729)	-
	Positions	-	-	-	-	-	-	-	-	-	-	-

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				Reductions		Expansion						
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09				
24462	DHHS-Dorothea Dix-Special Receipts	258,163	-	-	-	-	-	258,163				
	Change in Fund Balance	(252,448)	-	-	-	-	-	(252,448)				
	Positions	5,715	-	-	-	-	-	5,715				
64462	DHHS-Dorothea Dix-Trust-Special	10	-	-	-	-	-	10				
	Receipts	(10)	-	-	-	-	-	(10)				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
67462	DHHS-Dorothea Dix-Trust-Special Interest Bearing	8,039	-	-	-	-	-	8,039				
	Receipts	(7,061)	-	-	-	-	-	(7,061)				
	Change in Fund Balance	978	-	-	-	-	-	978				
	Positions	-	-	-	-	-	-	-				
24463	DHHS-Broughton Hospital-Special	163,178	-	-	-	-	-	163,178				
	Receipts	(144,553)	-	-	-	-	-	(144,553)				
	Change in Fund Balance	18,625	-	-	-	-	-	18,625				
	Positions	-	-	-	-	-	-	-				
64463	DHHS-Broughton Hospital-Trust-Special	53,050	-	-	-	-	-	53,050				
	Receipts	(37,902)	-	-	-	-	-	(37,902)				
	Change in Fund Balance	15,148	-	-	-	-	-	15,148				
	Positions	-	-	-	-	-	-	-				
67463	DHHS-Broughton Hosp-Trust-Special Interest Bee	55,757	-	-	-	-	-	55,757				
	Receipts	(73,484)	-	-	-	-	-	(73,484)				
	Change in Fund Balance	(17,727)	-	-	-	-	-	(17,727)				
	Positions	-	-	-	-	-	-	-				
24464	DHHS-Cherry Hospital-Special	95,355	62,675	-	-	-	-	158,030				
	Receipts	(82,570)	(62,675)	-	-	-	-	(145,245)				
	Change in Fund Balance	12,785	-	-	-	-	-	12,785				
	Positions	-	-	-	-	-	-	-				
64464	DHHS-Cherry Hospital-Trust-Special	18,837	-	-	-	-	-	18,837				
	Receipts	(18,800)	-	-	-	-	-	(18,800)				
	Change in Fund Balance	37	-	-	-	-	-	37				
	Positions	-	-	-	-	-	-	-				
67464	DHHS-Cherry Hospital-Trust-Special-Int. Bearing	151,200	-	-	-	-	-	151,200				
	Receipts	(142,500)	-	-	-	-	-	(142,500)				
	Change in Fund Balance	8,700	-	-	-	-	-	8,700				
	Positions	-	-	-	-	-	-	-				
74464	DHHS-Cherry Hospital-Internal Service-Special	-	-	-	-	-	-	-				
	Receipts	-	-	-	-	-	-	-				
	Change in Fund Balance	-	-	-	-	-	-	-				
	Positions	-	-	-	-	-	-	-				
24465	DHHS-Urinstead Hospital-Special	172,878	-	-	-	-	-	172,878				
	Receipts	(169,807)	-	-	-	-	-	(169,807)				

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS						Revised Appropriation		
				Reductions		Expansion		Net Change	2008-09			
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring			Recurring	Nonrecurring	
	Change in Fund Balance	4,071	-	-	-	-	-	-	-	-	-	4,071
	Positions	-	-	-	-	-	-	-	-	-	-	-
54465	DHHS-Town of Butner-Enterprise-Special	1,984,618	-	-	-	-	-	-	-	-	-	1,984,618
	Receipts	(1,984,618)	-	-	-	-	-	-	-	-	-	(1,984,618)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	8.00	-	-	-	-	-	-	-	-	-	8.00
64465	DHHS-Umstead Hospital-Trust-Special	21,084	-	-	-	-	-	-	-	-	-	21,084
	Receipts	(20,729)	-	-	-	-	-	-	-	-	-	(20,729)
	Change in Fund Balance	355	-	-	-	-	-	-	-	-	-	355
	Positions	-	-	-	-	-	-	-	-	-	-	-
67465	DHHS-Umstead Hospital-Trust-Special-Interest	9,290	-	-	-	-	-	-	-	-	-	9,290
	Receipts	(9,020)	-	-	-	-	-	-	-	-	-	(9,020)
	Change in Fund Balance	270	-	-	-	-	-	-	-	-	-	270
	Positions	-	-	-	-	-	-	-	-	-	-	-
74465	DHHS-Umstead Hospital-Internal Svc-Special	749,978	-	-	-	-	-	-	-	-	-	749,978
	Receipts	(775,695)	-	-	-	-	-	-	-	-	-	(775,695)
	Change in Fund Balance	(25,717)	-	-	-	-	-	-	-	-	-	(25,717)
	Positions	9.00	-	-	-	-	-	-	-	-	-	9.00
24470	DHHS-Health Svc. Regulation-Special-GF	299,750	-	-	-	-	-	-	-	-	-	299,750
	Receipts	(299,750)	-	-	-	-	-	-	-	-	-	(299,750)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
	DHHS-Vocational Rehabilitation	-	-	-	-	-	-	-	-	-	-	-
24480	DHHS-VR-Special	606,781	-	-	-	-	-	-	-	-	-	606,781
	Receipts	(606,781)	-	-	-	-	-	-	-	-	-	(606,781)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24481	DHHS-Disability Determination-Special	58,927,412	601,322	-	-	-	-	-	-	-	-	59,528,734
	Receipts	(58,927,412)	(601,322)	-	-	-	-	-	-	-	-	(59,528,734)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	690.00	-	-	-	-	-	-	-	-	-	690.00
	Justice and Public Safety	-	-	-	-	-	-	-	-	-	-	-
24500	Correction-Special	2,016,335	-	-	-	-	-	-	-	-	-	2,016,335
	Receipts	(2,016,335)	-	-	-	-	-	-	-	-	-	(2,016,335)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	17.00	-	-	-	-	-	-	-	-	-	17.00
24501	Correction IT-Special-GF	-	359,700	-	-	-	-	-	-	-	-	359,700
	Receipts	-	(359,700)	-	-	-	-	-	-	-	-	(359,700)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring Adjustment	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation			
				Reductions		Expansion						
		2008-09		Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09				
24502	Positions Correction-Canteen Other Special	13,393,003 (13,393,003)	-	-	-	-	-	13,393,003 (13,393,003)				
	Change in Fund Balance											
24503	Positions Correction-Special-Interest Bearing	22,000 968 (968)	1,104 (1,104)	-	-	-	-	22,000 2,072 (2,072)				
	Change in Fund Balance											
74500	Positions Correction-Internal Service Fund	85,091,196 (85,509,921) (418,725)	-	-	-	-	-	85,091,196 (85,509,921) (418,725)				
	Change in Fund Balance											
	Positions	397,000	-	-	-	-	-	397,000				
	Crime Control & Public Safety											
24960	CC&PS-Highway Control Special	203,903,080 (203,903,080)	1,958,467 (1,958,467)	-	-	-	-	205,861,547 (205,861,547)				
	Change in Fund Balance											
24961	Positions CC&PS-Seized/Forfeited Assets-Special	2,381,000 962,212	537,788	-	-	-	-	2,381,000 1,500,000				
	Change in Fund Balance											
24962	Positions CC&PS-Juvenile Justice Block Grant-GF	962,212	537,788	-	-	-	-	1,500,000				
	Change in Fund Balance											
24963	Positions CC&PS-Disaster Relief-GF	11,655,971 (11,655,971)	-	-	-	-	-	11,655,971 (11,655,971)				
	Change in Fund Balance											
24964	Positions CC&PS-Other Special Grants	62,449,480 62,449,480	-	-	-	-	-	62,449,480 62,449,480				
	Change in Fund Balance											
24964	Positions CC&PS-Other Special Grants	60,818,010 (60,818,010)	153,978 (153,978)	-	-	-	-	60,971,988 (60,971,988)				
	Change in Fund Balance											
	Positions	-	-	-	-	-	-	-				
	Judicial											
22001	AOC-Special	12,200,000	-	-	-	-	1,421,947	13,621,947				
	Change in Fund Balance											
22004	Positions AOC-Reserve for Safe Roads-Special	12,200,000 167,354 1,965,554	-	-	-	-	-	13,621,947 167,354 1,965,554				

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Budget Code	Function	Certified Appropriation 2008-09	LEGISLATIVE ADJUSTMENTS					Revised Appropriation 2008-09	
			Technical Recurring Adjustment	Reductions		Expansion			Net Change
				Recurring	Nonrecurring	Recurring	Nonrecurring		
	Receipts	(1,965,554)	-	-	-	-	(1,965,554)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
22005	AOC-Worthless Check Fund-Special	803,619	-	-	-	-	803,619		
	Receipts	(803,619)	-	-	-	-	(803,619)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
22006	AOC-IT Fund-Special	2,179,963	-	-	-	-	2,179,963		
	Receipts	(2,179,963)	-	-	-	-	(2,179,963)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
	Change in Fund Balance	42,00	-	-	-	-	42,00		
22007	AOC-Appellate Cts. Printing & Computer-Special	509,489	-	-	-	-	509,489		
	Receipts	(509,489)	-	-	-	-	(509,489)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
22008	AOC-Special-GF	4,75	-	-	-	-	4,75		
	Receipts	(14,515)	14,515	-	-	-	14,515		
	Change in Fund Balance	-	(14,515)	-	-	-	(14,515)		
	Positions	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
	Justice	-	-	-	-	-	-		
23600	Justice-Special	11,649,441	297,000	-	-	-	11,946,441		
	Receipts	(53,455)	(297,000)	-	-	-	(350,455)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
	Change in Fund Balance	11,596,986	-	-	-	-	11,596,986		
	Positions	-	-	-	-	-	-		
	Change in Fund Balance	1,00	-	-	-	-	1,00		
23601	Justice-Special Recurring	2,571,559	-	-	-	-	2,571,559		
	Receipts	(2,571,559)	-	-	-	-	(2,571,559)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
23606	Justice-Seized & Forfeited Assets-Special	26,00	-	-	-	-	26,00		
	Receipts	(1,290,587)	-	-	-	-	(1,290,587)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
	Change in Fund Balance	1,290,587	-	-	-	-	1,290,587		
	Positions	-	-	-	-	-	-		
63600	Justice-Private Protection Svcs.-Special	-	34,223	-	-	-	34,223		
	Receipts	(34,223)	(34,223)	-	-	-	(34,223)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		
63602	Justice-Alarm Systems Recovery-Special	-	5,000	-	-	-	5,000		
	Receipts	(5,000)	(5,000)	-	-	-	(5,000)		
	Change in Fund Balance	-	-	-	-	-	-		
	Positions	-	-	-	-	-	-		

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring Adjustment	Reductions			LEGISLATIVE ADJUSTMENTS Expansion			Net Change	Revised Appropriation	
				2008-09	Recurring	Nonrecurring	Recurring	Nonrecurring	Recurring			Nonrecurring
24060	Juvenile Justice	1,497,930	16,008	-	-	-	-	-	-	16,008	1,513,938	
	Juvenile Justice-Special	(1,497,930)	(9,767)	-	-	-	-	-	-	(9,767)	(1,507,697)	
	Receipts		8,241	-	-	-	-	-	-	8,241		
	Change in Fund Balance										23.50	
64060	Juvenile Justice-Trust	23.50	-	-	-	-	-	-	-	-	-	
	Receipts											
	Change in Fund Balance											
	Positions											
	Natural & Economic Resources											
	Agriculture & Consumer Services											
23700	Agriculture-Livestock-Special	-	9,023,052	-	-	-	-	-	-	9,023,052	9,023,052	
	Receipts		(591,800)	-	-	-	-	-	-	(591,800)	(591,800)	
	Change in Fund Balance		8,431,252	-	-	-	-	-	-	8,431,252	8,431,252	
	Positions											
23701	Agriculture-Warehouse Invest.-Special	-	2,000	-	-	-	-	-	-	2,000	2,000	
	Receipts		(2,000)	-	-	-	-	-	-	(2,000)	(2,000)	
	Change in Fund Balance											
	Positions											
23702	Agriculture-Disaster Relief-GF	-	-	-	-	-	-	-	-	-	-	
	Receipts											
	Change in Fund Balance											
	Positions											
23703	Agriculture-Tobacco Trust-Special	34,950,677	90,767	-	-	-	-	-	-	90,767	35,041,444	
	Receipts	(34,950,677)	(90,767)	-	-	-	-	-	-	(90,767)	(35,041,444)	
	Change in Fund Balance											
	Positions		1.00	-	-	-	-	-	-	1.00	3.00	
53700	Agriculture-Farmers Market-Enterprise	1,294,206	186,908	-	-	-	-	-	-	186,908	1,481,114	
	Receipts	(1,294,206)	(186,908)	-	-	-	-	-	-	(186,908)	(1,481,114)	
	Change in Fund Balance											
	Positions											
53725	Agriculture-Western NC Agriculture Fair-Enterpris	17.00	-	-	-	-	-	-	-	-	17.00	
	Receipts	(1,982,283)	550,783	-	-	-	-	-	-	550,783	2,533,066	
	Change in Fund Balance		(560,783)	-	-	-	-	-	-	(560,783)	(2,533,066)	
	Positions											
53750	Agriculture-State Fair-Enterprise	13.00	-	-	-	-	-	-	-	-	13.00	
	Receipts	12,556,517	5,345,977	-	-	-	-	-	-	5,345,977	17,902,494	
	Change in Fund Balance	(12,556,517)	(1,910,977)	-	-	-	-	-	-	(1,910,977)	(14,467,494)	
	Positions		3,435,000	-	-	-	-	-	-	3,435,000	3,435,000	
	Change in Fund Balance										74.00	
63700	Agriculture-Trust-Special	74.00	-	-	-	-	-	-	-	-	74.00	
	Receipts		474,560	-	-	-	-	-	-	474,560	474,560	
	Change in Fund Balance		(474,560)	-	-	-	-	-	-	(474,560)	(474,560)	

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring		Reductions			LEGISLATIVE ADJUSTMENTS Expansion			Revised Appropriation	
			2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring	Net Change	2008-09		
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
63704	Agriculture-Cooperative Grading Program	-	6,428,400	-	-	-	-	-	-	-	6,428,400	-
	Receipts	-	(6,428,400)	-	-	-	-	-	-	-	(6,428,400)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	87,25	-	-	-	-	-	-	-	87,25	-
63706	Agriculture-Trust-GF	-	-	-	-	-	-	-	-	-	-	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
	DACS Component Units											
63702	Agriculture-Rural Rehab Loans-Proprietary	-	959,026	-	-	-	-	-	-	-	959,026	-
	Receipts	-	(959,026)	-	-	-	-	-	-	-	(959,026)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	2,00	-	-	-	-	-	-	-	2,00	-
63703	Agriculture-Finance Authority-Proprietary	-	1,240,000	-	-	-	-	-	-	-	1,240,000	-
	Receipts	-	(1,240,000)	-	-	-	-	-	-	-	(1,240,000)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	7,00	-	-	-	-	-	-	-	7,00	-
	Commerce											
24600	Commerce-Special	183,833,087	4,003,290	-	-	-	-	-	-	-	4,003,290	187,836,387
	Receipts	(151,620,412)	(3,290)	-	-	-	-	-	-	-	(3,290)	(151,623,702)
	Change in Fund Balance	32,212,685	4,000,000	-	-	-	-	-	-	-	4,000,000	36,212,685
	Positions	86,40	3,00	-	-	-	-	-	-	-	3,00	89,40
24602	Commerce-Disaster Relief-GF	-	1,500,000	-	-	-	-	-	-	-	1,500,000	-
	Receipts	-	(1,500,000)	-	-	-	-	-	-	-	(1,500,000)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24603	Commerce-NC Clean-Special	-	-	-	-	-	-	-	-	-	-	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
24604	Commerce-Morehead-Special	-	11,000	-	-	-	-	-	-	-	11,000	-
	Receipts	-	(11,000)	-	-	-	-	-	-	-	(11,000)	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24605	Commerce-Cape Fear-Special	6,000	-	-	-	-	-	-	-	-	-	6,000
	Receipts	(6,000)	-	-	-	-	-	-	-	-	-	(6,000)
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS						Revised Appropriation		
				Reductions		Expansion		Net Change	2008-09			
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring			Recurring	Nonrecurring	
24606	Commerce-Clean Water Bonds-Special	-	2,074,474	-	-	-	-	-	-	2,074,474	2,074,474	(2,074,474)
	Receipts	-	(2,074,474)	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24609	Commerce-Special GF	57,500	9,192,500	-	-	-	-	-	-	9,192,500	9,192,500	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	57,500	9,192,500	-	-	-	-	-	-	9,192,500	9,192,500	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24611	Commerce-IT Projects-GF	-	2,989,549	-	-	-	-	-	-	2,989,549	2,989,549	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	2,989,549	-	-	-	-	-	-	2,989,549	2,989,549	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24608	Commerce-Special-GF	-	-	-	-	-	-	-	-	-	-	-
	Receipts	-	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
24610	Commerce-Special	66,100	-	-	-	-	-	-	-	-	66,100	(66,100)
	Receipts	(66,100)	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
54600	Commerce-Enterprise	35,278,267	1,912,414	-	-	-	-	-	-	1,912,414	37,188,681	(34,921,955)
	Receipts	(33,516,851)	(1,405,104)	-	-	-	-	-	-	(1,405,104)	(34,921,955)	-
	Change in Fund Balance	1,759,416	507,310	-	-	-	-	-	-	507,310	2,266,726	(200,000)
	Positions	301,000	-	-	-	-	-	-	-	-	301,000	-
64604	Commerce-EDA Funds-GF	200,000	-	-	-	-	-	-	-	-	200,000	-
	Receipts	(200,000)	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64605	Commerce-Utilities Comm/PS- Enterprise	-	13,000,000	-	-	-	-	-	-	13,000,000	13,000,000	(13,000,000)
	Receipts	-	(13,000,000)	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64612	Commerce-NC Rural Elec.Authority-Special	178,500	-	-	-	-	-	-	-	-	178,500	(178,500)
	Receipts	(178,500)	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64613	Commerce-Utilities Comm./Nat. Gas-Special	3,470	-	-	-	-	-	-	-	-	3,470	(601)
	Receipts	(601)	-	-	-	-	-	-	-	-	-	-
	Change in Fund Balance	2,869	-	-	-	-	-	-	-	-	2,869	-
	Positions	-	-	-	-	-	-	-	-	-	-	-
64616	Commerce-CDBG-Revolving Loan-GF	1,000,000	-	-	-	-	-	-	-	-	1,000,000	(1,000,000)
	Receipts	(1,000,000)	-	-	-	-	-	-	-	-	-	-

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation			Technical Recurring Adjustment			LEGISLATIVE ADJUSTMENTS			Revised Appropriation	
		2008-09	2008-09	2008-09	2008-09	2008-09	2008-09	2008-09	2008-09	2008-09		
		Appropriation			Reductions			Expansion			Net Change	
Change in Fund Balance												
Positions												
24601	Commerce State-Aid Commerce-Disaster-Special											
	Receipts											
	Change in Fund Balance											
	Positions											
54641	Education Lottery NC Education Lottery Proceeds	1,067,647,291			271,945,709							1,339,593,000
	Receipts	(1,067,647,291)			(271,945,709)							(1,339,593,000)
	Change in Fund Balance											
	Positions											
54670	NC Education Lottery Commission	52,385,209										52,385,209
	Receipts	(52,385,209)										(52,385,209)
	Change in Fund Balance											
	Positions	225.00										225.00
24650	Employment Security Commission (ESC) ESC-Administration-Special	246,658,700										246,658,700
	Receipts	(246,658,700)										(246,658,700)
	Change in Fund Balance											
	Positions	1,687.86										1,687.86
64650	ESC-Administration-Trust-Special	4,742,378										4,742,378
	Receipts	(4,742,378)										(4,742,378)
	Change in Fund Balance											
	Positions											
64651	ESC-Claims/Benefits-Trust-Enterprise	880,915,483										880,915,483
	Receipts	(880,915,483)										(880,915,483)
	Change in Fund Balance											
	Positions											
64653	ESC-Reserve-Trust-Enterprise	162,982,484										162,982,484
	Receipts	(162,982,484)										(162,982,484)
	Change in Fund Balance											
	Positions											
64652	ESC-Trust-Clearing	944,644,817										944,644,817
	Receipts	(944,644,817)										(944,644,817)
	Change in Fund Balance											
	Positions											
64655	ESC-Training & Employ.-Trust-Enterprise	74,141										74,141
	Receipts	(74,141)										(74,141)

Fiscal Year 2008-09											
2008 Legislative Session											
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation		
				Reductions		Expansions					
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
	Economic & Natural Resources (DENR)										
24300	DENR-Special	38,810,076	15,559,611	-	-	-	-	54,369,687			
	Receipts	(36,308,755)	(3,420,005)	-	-	-	-	(39,728,760)			
	Change in Fund Balance	2,501,321	12,139,606	-	-	-	-	14,640,927			
	Positions	282.11	-	-	-	-	-	282.11			
24301	DENR-Air Quality-Fuel Tax-Special	10,607,061	971,251	-	-	-	-	11,578,312			
	Receipts	(10,607,061)	(967,154)	-	-	-	-	(11,564,215)			
	Change in Fund Balance	-	14,097	-	-	-	-	14,097			
	Positions	96.00	-	-	-	-	-	96.00			
24302	DENR-Governor's Cupt-Trust-Special	6,080	3,000	-	-	-	-	9,080			
	Receipts	(1,414)	(3,000)	-	-	-	-	(4,414)			
	Change in Fund Balance	4,666	-	-	-	-	-	4,666			
	Positions	-	-	-	-	-	-	-			
24303	DENR-Marine Fish Conserv.-Special	22,887	186,089	-	-	-	-	208,976			
	Receipts	(22,887)	(25,050)	-	-	-	-	(47,937)			
	Change in Fund Balance	-	161,039	-	-	-	-	161,039			
	Positions	-	-	-	-	-	-	-			
24304	DENR-Wetlands Trust Fund-Special	59,518,833	33,676,687	-	-	-	-	93,195,520			
	Receipts	(59,443,833)	26,004,173	-	-	-	-	(33,439,660)			
	Change in Fund Balance	75,000	59,680,860	-	-	-	-	59,755,860			
	Positions	-	-	-	-	-	-	-			
24305	DENR-Clean Water Mgmt. Trust-Special	80,538,288	32,961,712	-	-	-	-	113,500,000			
	Receipts	(80,538,288)	(19,461,712)	-	-	-	-	(100,000,000)			
	Change in Fund Balance	-	13,500,000	-	-	-	-	13,500,000			
	Positions	-	-	-	-	-	-	-			
24306	DENR-Dry Cleaning Solvent Tax-Special	18,555,015	(6,681,859)	-	-	-	-	11,873,156			
	Receipts	(18,555,015)	7,555,015	-	-	-	-	(11,000,000)			
	Change in Fund Balance	-	873,156	-	-	-	-	873,156			
	Positions	9.80	-	-	-	-	-	9.80			
24307	DENR-Forest Development-Special	3,218,693	(8,001)	-	-	-	-	3,209,692			
	Receipts	(3,218,693)	9,001	-	-	-	-	(3,209,692)			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	2.75	-	-	-	-	-	2.75			
24308	DENR-Special	13,785,327	20,056,481	-	-	-	-	33,841,808			
	Receipts	(12,785,956)	(19,242,607)	-	-	-	-	(32,028,563)			
	Change in Fund Balance	999,371	813,874	-	-	-	-	1,813,245			
	Positions	96.50	-	-	-	-	-	96.50			
24309	DENR-PartF-Special	49,037,721	19,908,033	-	-	-	-	68,945,754			
	Receipts	(49,037,721)	(10,547,902)	-	-	-	-	(59,585,623)			

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS					Net Change	Revised Appropriation		
				Reductions		Expansion						
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring	Recurring	Nonrecurring		2008-09	
	Change in Fund Balance	-	9,360,131	-	-	-	-	-	-	9,360,131	9,360,131	
	Positions	-	-	-	-	-	-	-	-	-	-	
24310	DENR-Disaster-GF	2,361,722	12,664,479	-	-	-	-	-	-	12,664,479	15,046,201	
	Receipts	(2,302,443)	(7,667,557)	-	-	-	-	-	-	(7,667,557)	(10,000,000)	
	Change in Fund Balance	59,279	4,966,922	-	-	-	-	-	-	4,966,922	5,046,201	
	Positions	-	-	-	-	-	-	-	-	-	-	
24311	DENR-Interest-CI	-	200,000	-	-	-	-	-	-	200,000	200,000	
	Receipts	-	(200,000)	-	-	-	-	-	-	(200,000)	(200,000)	
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	
24321	DENR-CWB-WS Loan Program 1988	-	294,502	-	-	-	-	-	-	294,502	294,502	
	Receipts	-	(294,502)	-	-	-	-	-	-	(294,502)	(294,502)	
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	
	Positions	-	-	-	-	-	-	-	-	-	-	
24323	DENR-Marine Resources Fund	1,610,900	7,841,975	-	-	-	-	-	-	7,841,975	9,452,875	
	Receipts	(1,610,900)	(5,560,562)	-	-	-	-	-	-	(5,560,562)	(7,191,462)	
	Change in Fund Balance	-	2,281,383	-	-	-	-	-	-	2,281,383	2,281,383	
	Positions	-	-	-	-	-	-	-	-	-	-	
24325	DENR-DWR-FERC Interest Bearing	-	150,000	-	-	-	-	-	-	150,000	150,000	
	Receipts	-	(150,000)	-	-	-	-	-	-	(150,000)	(150,000)	
	Change in Fund Balance	-	-	-	-	-	-	-	-	-	-	
	Positions	-	-	-	-	-	-	-	-	-	-	
24317	DENR-Special-GF	-	1,490,711	-	-	-	-	-	-	1,490,711	1,490,711	
	Receipts	-	(718,731)	-	-	-	-	-	-	(718,731)	(718,731)	
	Change in Fund Balance	-	771,980	-	-	-	-	-	-	771,980	771,980	
	Positions	-	-	-	-	-	-	-	-	-	-	
24318	DENR-Special-Int Bearing	-	900,000	-	-	-	-	-	-	900,000	900,000	
	Receipts	-	(200,000)	-	-	-	-	-	-	(200,000)	(200,000)	
	Change in Fund Balance	-	700,000	-	-	-	-	-	-	700,000	700,000	
	Positions	-	-	-	-	-	-	-	-	-	-	
64300	DENR-Trust-Special	-	46,000	-	-	-	-	-	-	46,000	46,000	
	Receipts	-	(2,509)	-	-	-	-	-	-	(2,509)	(2,509)	
	Change in Fund Balance	-	43,491	-	-	-	-	-	-	43,491	43,491	
	Positions	-	-	-	-	-	-	-	-	-	-	
64301	DENR-Waste Water Oper. Train-Special	-	542,689	-	-	-	-	-	-	542,689	542,689	
	Receipts	-	(452,594)	-	-	-	-	-	-	(452,594)	(452,594)	
	Change in Fund Balance	-	90,105	-	-	-	-	-	-	90,105	90,105	
	Positions	-	-	-	-	-	-	-	-	-	-	
64302	DENR-Natural Heritage-Trust-Special	-	65,402,740	-	-	-	-	-	-	65,402,740	65,402,740	
	Receipts	-	(20,149,825)	-	-	-	-	-	-	(20,149,825)	(20,149,825)	
	Change in Fund Balance	-	45,252,915	-	-	-	-	-	-	45,252,915	45,252,915	
	Positions	-	-	-	-	-	-	-	-	-	-	
64303	DENR-Solid Waste Mgmt. Trust-Special	7,686,898	(640,365)	-	-	-	-	-	-	(640,365)	7,046,533	

Fiscal Year 2008-09											
2008 Legislative Session											
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation		
				Reductions		Expansion					
		2008-09	Adjustment	Recurring	Nonrecurring	Recurring	Nonrecurring	2008-09			
	Receipts	(7,664,888)	640,365	-	-	-	-	640,365			
	Change in Fund Balance	22,000	-	-	-	-	-	22,000			
	Positions	8,00	-	-	-	-	-	8,00			
64304	DENR-Clean Water Revolving Loan-Special	-	9,444,769	-	-	-	-	9,444,769			
	Receipts	-	(4,596,871)	-	-	-	-	(4,596,871)			
	Change in Fund Balance	-	4,847,898	-	-	-	-	4,847,898			
	Positions	-	-	-	-	-	-	-			
64305	DENR-Commercial LUST Cleanup-Special	31,199,650	13,365,854	-	-	-	-	44,565,504			
	Receipts	(31,199,650)	870,786	-	-	-	-	(30,328,864)			
	Change in Fund Balance	-	14,236,640	-	-	-	-	14,236,640			
	Positions	4,00	-	-	-	-	-	4,00			
64306	DENR-Waste Water Trmt. Maint.-Special	-	300,000	-	-	-	-	300,000			
	Receipts	-	(20,000)	-	-	-	-	(20,000)			
	Change in Fund Balance	-	280,000	-	-	-	-	280,000			
	Positions	-	-	-	-	-	-	-			
64307	DENR-Conservation Grant Endowment-Permanent	-	179,298	-	-	-	-	179,298			
	Receipts	-	(563,540)	-	-	-	-	(563,540)			
	Change in Fund Balance	-	(414,242)	-	-	-	-	(414,242)			
	Positions	-	-	-	-	-	-	-			
64308	DENR-Non-Comm. LUST Cleanup-Special	13,095,000	(5,534,365)	-	-	-	-	7,569,635			
	Receipts	(13,095,000)	7,164,980	-	-	-	-	(5,930,020)			
	Change in Fund Balance	-	1,630,615	-	-	-	-	1,630,615			
	Positions	-	-	-	-	-	-	-			
64309	DENR-Ground Water Pro. Loan-Special	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
64311	DENR-Water Poll. Revolv. Loan-Enterprise	-	60,359,956	-	-	-	-	60,359,956			
	Receipts	-	(60,359,956)	-	-	-	-	(60,359,956)			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
64312	DENR-Fed. Bond Revolv. Loan-Enterprise	-	3,270,231	-	-	-	-	3,270,231			
	Receipts	-	(3,269,767)	-	-	-	-	(3,269,767)			
	Change in Fund Balance	-	464	-	-	-	-	464			
	Positions	-	-	-	-	-	-	-			
64314	DENR-State Bond Revolv. Loan-Special	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-			
	Positions	-	-	-	-	-	-	-			
64316	DENR-Pigeon River Trust-Special	-	-	-	-	-	-	-			
	Receipts	-	-	-	-	-	-	-			
	Change in Fund Balance	-	-	-	-	-	-	-			

Fiscal Year 2008-09											
2008 Legislative Session											
Budget Code	Function	Certified Appropriation	Technical Recurring	LEGISLATIVE ADJUSTMENTS				Net Change	Revised Appropriation		
				2008-09	Adjustment	Recurring	Nonrecurring			Recurring	Nonrecurring
64317	Positions DENR-Settlement-Special Receipts Change in Fund Balance	-	-	-	-	-	-	-	-	-	-
64318	Positions DENR-High Unit Cost WW Grants-Special Receipts Change in Fund Balance	-	10,888,670 (10,888,670)	-	-	-	-	10,888,670 (10,888,670)	-	-	10,888,670 (10,888,670)
64319	Positions DENR-CWSRF Federal Program-Enterprise Receipts Change in Fund Balance	-	7,034,546 (7,034,546)	-	-	-	-	7,034,546 (7,034,546)	-	-	7,034,546 (7,034,546)
64320	Positions DENR-Drinking Water SRF-Enterprise Receipts Change in Fund Balance	9,895,588 (9,895,588)	18,004,412 (18,004,412)	-	-	-	-	18,004,412 (18,004,412)	-	-	27,700,000 (27,700,000)
64321	Positions DENR-High Unit Cost WS Grants-Special Receipts Change in Fund Balance	46,20	-	4,264,883 (4,264,883)	-	-	-	4,264,883 (4,264,883)	-	-	46,20 4,264,883 (4,264,883)
64322	Positions DENR-Drinking Water SRF-Bond Match-Enterprise Receipts Change in Fund Balance	-	3,840,656 (3,840,656)	-	-	-	-	3,840,656 (3,840,656)	-	-	3,840,656 (3,840,656)
64323	Positions DENR-Marine Res. Endowment-Permanent Receipts Change in Fund Balance	168,790 (168,790)	(63,214) (1,578,340)	-	-	-	-	(63,214) (1,578,340)	-	-	105,578 (1,747,130)
64324	Positions DENR-Drinking Water Reserve-Special Receipts Change in Fund Balance	-	472,051 (472,051)	-	-	-	-	472,051 (472,051)	-	-	472,051 (472,051)
64326	Positions DENR-Trust-Special Receipts Change in Fund Balance	-	1,000 (1,000)	-	-	-	-	1,000 (1,000)	-	-	1,000 (1,000)
24350	Wildlife Resources Wildlife Resources-Special Receipts Change in Fund Balance	59,134,889 (59,185,535)	500,640 (500,640)	-	-	-	-	500,640 (500,640)	-	-	59,635,509 (59,686,175)
		(50,696)	-	-	-	-	-	-	-	-	(50,696)

Fiscal Year 2008-09												
2008 Legislative Session												
Budget Code	Function	Certified Appropriation		Technical Recurring		LEGISLATIVE ADJUSTMENTS						Revised Appropriation
		2008-09	2008-09	Adjustment	Recurring	Reductions	Expansion			Net Change		
						Recurring	Nonrecurring	Recurring	Nonrecurring	Nonrecurring		2008-09
	Positions		637.50	12.00							12.00	649.50
24351	Wildlife Resources-Interest-Special		24,204,677	-							-	24,204,677
	Receipts		(24,204,677)	-							-	(24,204,677)
	Change in Fund Balance											
	Positions		1.50	-							-	1.50
24352	Wildlife Resources-Non-Interest-Special		26,618,540	-							-	26,618,540
	Receipts		(26,618,540)	-							-	(26,618,540)
	Change in Fund Balance											
	Positions		-	-							-	-
64350	Wildlife Resources Endowment-Permanent		-	-							-	-
	Receipts		-	-							-	-
	Change in Fund Balance		-	-							-	-
	Positions		-	-							-	-
	Positions		-	-							-	-
23800	Labor-Special		4,993,616	121,366							121,366	5,115,002
	Receipts		(4,993,616)	(121,366)							(121,366)	(5,115,002)
	Change in Fund Balance											
	Positions		67.00	-							-	67.00
63800	Labor-Trust-Special		2,890	-							-	2,890
	Receipts		(2,890)	-							-	(2,890)
	Change in Fund Balance											
	Positions		-	-							-	-
63801	Labor-IDA-Trust-Special		85,002	-							-	85,002
	Receipts		(85,002)	-							-	(85,002)
	Change in Fund Balance											
	Positions		-	-							-	-
	Positions		-	-							-	-
58410	Child Health Insurance Program		-	214,619,300							214,619,300	214,619,300
	Receipts		-	(214,619,300)							(214,619,300)	(214,619,300)
	Change in Fund Balance											
	Positions		-	-							-	-

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"Ratified Number" refers to the Session Law number except when preceded by an R, in which case it refers to the Resolution number. Extra Session legislation is identified by an asterisk (*).

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1263	150	1766	200	2118	60
1314	224	1770	131	2123	113
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1340	141	1796	184	2131	42
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A

Adjournment 1

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